

SEANAD ÉIREANN

—
Dé Céadaoin, 4 Bealtaine 2005.
Wednesday, 4 May 2005.
 —

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

—
Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for Health and Children to address the concern of the local community at the level of general practitioner services at Shercock, County Cavan.

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

The need for the Minister for Health and Children to put in place dedicated transport arrangements for radiotherapy patients in the south east.

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

The need for the Minister for Communications, Marine and Natural Resources to make a statement on the application for a foreshore licence from the Shannon Foynes Port Company and the concerns of the local community in respect of this application and also their concerns as to the intended removal of the existing public slipways at Foynes, County Limerick.

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 a full and proper deer count of both the native red and sika species is organised, conducted and taken into account before any decision is taken regarding a deer cull in Killarney National Park or the vicinity thereof.

Mr. Ross: Hear, hear.

An Cathaoirleach: I have also received notice from Senator John Paul Phelan of the following matter:

The need for the Minister for Education and Science to outline the internal policies which resulted in a child (details supplied) who was sanctioned for two and a half hours' weekly resource teaching in November 2004 remaining without this support for 19 months; and the reason the sanctioned hours were not communicated to the school.

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

The need for the Minister for Health and Children to extend the community mothers' programme, which has been operating in the Dublin area for the past seven years, to the greater Blanchardstown area.

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

The need for the Minister for Health and Children to provide an update on phase 2B of the Mullingar Hospital development.

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

The need for the Minister for Justice, Equality and Law Reform to outline the present position on the visa application of a person (details supplied) and the need to give compassionate consideration to the request.

I regard the matters raised by Senators as suitable for discussion on the Adjournment and have selected the matters raised by Senators Wilson, Cummins and Finucane which will be taken at the conclusion of business. The other Senators may give notice on another day of the matters they wish to raise.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, International Interests in Mobile Equipment (Cape Town Convention) Bill 2005 — Committee and Remaining Stages, to be taken on the conclusion of the Order of Business and to conclude not later than 4 p.m.; No. 2, Maritime Safety Bill 2004 — Report and Final Stages, to be taken at 4 p.m. until 5 p.m., to resume at 7.15 p.m. and to conclude not later than 8 p.m.; and No. 17, motion 13, motion re immigrant workers, to be taken at 5 p.m. until 7 p.m.

Mr. B. Hayes: The news of significant job losses from Waterford Crystal in Dungarvan and Waterford city is devastating, particularly for the 490 people who have lost their jobs. Will the Leader organise a debate following today's publication of the latest quarterly report from the Central Bank which shows that indigenous employment in this country suffers from a lack of competitiveness? Some 90% of additional export growth is generated by foreign-owned companies and not by the indigenous sector.

Waterford Crystal would be regarded by most people as one of our premier indigenous busi-

[Mr. B. Hayes.]
nesses. We are losing our edge and pricing ourselves out of the market and jobs are being lost. The issue should be debated at some stage over the coming weeks, particularly in light of the findings of the Central Bank report.

Our hearts go out to those who have lost their jobs today. I understand that approximately 5% of the population of Dungarvan has been directly affected by the loss of the Waterford Crystal business there. This is particularly difficult for the people in the area and the Government needs to respond.

I ask the Leader of the House to make time available for a debate on the issue of special needs. We know from travelling throughout the country that there are children and schools requiring additional help in terms of putting special needs assistance in place. It is therefore disgraceful and unbelievable that the Government should be taking 70 people out of the system by the end of this month. An explanation is required. When there is such a dramatic need for special needs assistants, why does the Government intend to let go 70 people who are working in this area? They cannot be reallocated because of the failure to put a reallocation scheme in place. We need an explanation on this matter from the Government this week.

Mr. O'Toole: Hear, hear.

Mr. B. Hayes: I ask the Leader to place this item on the Order of Business tomorrow.

Mr. O'Toole: The Leader of the House should facilitate the making of statements in the House concerning the situation in Marino College of Education. To the best of my knowledge, the board of governors should resign from office or even be dismissed. It is a worrying "States of Fear" situation with intimidation, abuse and questionable financial transactions taking place. I want to have this situation examined from an educational point of view and because the Minister of Education and Science would have a view on why these matters have developed.

The college president and three other people have challenged the authorities at various stages. One found himself sent to darkest Africa, as might occur in feudal times. The college president and another individual were requested and required to submit themselves for psychological and psychiatric examination. Another individual was told to reconsider his position and the last was told he could look forward to no further promotion.

It is not appropriate that I should go into the details now, but questions were raised about why a surplus of State funds found itself in the same account from which were bought at least four apartments owned by the college. I want to know why State money should be in such a situation.

An Cathaoirleach: The Senator should not go into such detail.

Mr. O'Toole: I will not outstay my welcome on the issue. I was trying to give some idea of it and I will not go any further except to state that there were financial implications attached to a situation where the college president questioned why the list of employed staff differed from the list of actual staff. This led to questions which in turn led to total intimidation, abuse and bullying which has ultimately led to a star of the Irish primary education system feeling the need to resign her position as college president. Much needs to be discussed here and I want the opportunity to do so. The events that are taking place are outrageous and the Department of Education and Science cannot wash its hands of it. It is more than it can tolerate.

Mr. Ryan: We would benefit from a reasonably calm debate on what is the matter with much of our indigenous industry and what are its problems. Its "slash and burn" mentality was well articulated by the Dungarvan workers that I heard being interviewed, who spoke about the enormous efforts they had made as well as the suddenness and apparent brutality of the closure announcement. How is it that workers from the same background and country can be among the most productive in the world when they are working for a properly-run multinational, paid roughly the same wages and subject to the same national wage agreements? However, when they work for what is described as indigenous enterprise they become uncompetitive. There is a partnership approach in this country in which workers and trade unionists have an obligation to play their part. However, there are serious questions about the capacity of what is called native enterprise to rise to the challenge of a global economy. It is an issue in which the Government has a central role to play.

The Government must educate employers who have had a very easy time of it over the past ten years with a booming economy, who have suddenly been confronted with the reality of world economics and who are taking the easiest, shortest and most brutal way out of their difficulties. These employers are de-skilling this country because when the cut glass market turns around, the industry will not be able to automatically recruit people because it is skilled work that takes years to master. The abolition of these jobs means that this country will lose the skills associated with them forever. We need to examine the role of indigenous enterprise and whether it is actually seriously enterprising.

A particular horrific crime took place the night before last in my home city of Cork. A young family, including a woman who was six months pregnant, was held hostage. It appears from what has been reported by the Garda that the people arrested in connection with the crime all have one thing in common, apart from being psychopathic

thugs. They were all closely connected with the self-styled republican movement. I am tired of seeing senior figures in this movement marching behind paramilitary displays and boasting of the heroism of what they call Oglagh na h-Éireann. There was nothing heroic about the crime that took place in Cork two nights ago. It was a brutal and squalid criminal act and I would be horrified if my fellow countrymen and women would vote for a political party that regards people like the perpetrators of this crime as anything other than the brutal thugs they are. To subject a woman, who is six months pregnant, and four children to such an ordeal is a disgrace to any concept of republicanism that I ever heard or inherited.

Mr. U. Burke: On Private Members' business only two weeks ago in this House we debated a Government motion congratulating itself on all it achieved in the area of education over the past two or three years. At the same time, the Minister for Education and Science must have been aware that she and her Department were in the process of dismissing 70 special needs teachers. A partially completed report clearly indicates the need for 175 additional special needs teachers, as well as the need to further increase that figure.

We now witness the dismissal of experienced and dedicated people who have offered their services for the past few years. How can any Government claim to be serious about its commitment to special needs education when it sanctions these dismissals? I support those Senators who have asked the Minister for Education and Science to come to this House and clearly indicate her intention to reverse this decision and retain these special needs teachers as staff of the Department of Education and Science so they can benefit children in need of their services.

Mr. Minihan: I endorse Senator Ryan's comments regarding the events that took place in Cork two days ago. I know the couple in question well and know that the family has suffered extreme trauma as a result of this crime. I am also tired of expressing my views in this House regarding the activities of the so-called republican movement. If this crime is its version of democracy and advancing its case, we are in a very sorry state. It is time for people who have remained silent on these issues to stand up and be counted and send a clear message that it is not acceptable for Sinn Féin or the republican movement to give comfort or succour to the people who perpetrated this crime. I also congratulate the gardaí on the swift and successful way in which they dealt with this crime.

Debate adjourned.

Visit of Isle of Man Delegation.

An Cathaoirleach: Before I call on the next speaker, I am sure that fellow Members of the House will join with me in welcoming a

parliamentary delegation from the Isle of Man led by the Honourable Noel Cringle, President of Tynwald. On behalf of the Members of Seanad Éireann, I extend a warm welcome and sincere good wishes for an enjoyable and successful visit.

Order of Business (Resumed).

Mr. Norris: I also welcome the members of the House of Keys, which is referred to in James Joyce's *Ulysses*. I join with Senator Brian Hayes in expressing concern about the special needs assistants being let go. This is extraordinary as there is a need for these people. It should not be beyond the wit of the Department to redeploy them rather than getting rid of them and then rehiring them or others. I listened to a discussion on this and understand that one of the problems cited by the Department is that these posts are client centred and deal with the needs of particular children but it should be possible to find other children in the network who could benefit. Failure to redeploy these people when they are so urgently needed is grossly inefficient.

Mr. O'Toole: Hear hear.

Mr. Norris: I have raised the issue of Dublin hospitals' accident and emergency units in the House a number of times. A situation occurred last week in which St. James's Hospital received unjustified criticism. An elderly man who should have known better turned up in the hospital's accident and emergency department and was extremely abusive, obstructive and violent. He then proceeded to urinate on the floor. When he refused to do as he was told, he was eventually put in a wheelchair and taken out to the fringes of the hospital grounds to be placed in a taxi for which staff had telephoned. The taxi driver refused to take the man because he was so drunk and unpleasant, left him there and called the Garda. The man had disappeared by the time gardaí arrived a few minutes later. Much criticism was directed at the hospital but I support it 100%. I deplore the insane and disgusting behaviour of this ignorant animal and the way in which he endangered the well-being of patients who might have been seriously ill, traumatised or had open wounds. There should be a drunk tank like a dog pound and these people should be into it, as happens in the United States.

Mr. B. Hayes: Hear, hear.

Mr. Norris: These people should be subject to an automatic fine of €200 when they recover with a thick head in the morning.

Mr. Finucane: The raising of the issue of special needs assistants is opportune. As Senator Ulick Burke said, it has only been a few weeks since the Minister for Education and Science made promises to this House in the area of special needs and resource teaching. I have predicted previously that this will be an important issue in

[Mr. Finucane.]
the near future as people are now planning for September. Many young children with dyslexia and mild learning difficulties will need special tuition of 2.5 hours per week, which was the position in the past, but this service will be taken from them. I call on the Minister not to address this House but to say that she has concluded her review and will change direction on this, otherwise it will be detrimental to the Department of Education and Science in the future.

Mr. B. Hayes: Hear, hear.

Mr. Quinn: Will the Leader bring to the attention of the Minister for Justice, Equality and Law Reform the challenge facing a juror who must sit beside the family of the accused in court, a family that takes note of the names and addresses of every juror called? This happened recently in the case of a murder trial. We do not have an immediate ability to address this matter but the danger of intimidation of jurors is strong. They find themselves squeezed into a courtroom next to the family of an accused person that immediately and visibly takes note of their details. Even if this is not the intention, such actions lead to intimidation.

An Cathaoirleach: This is a matter for the courts.

Mr. Quinn: It should be drawn to the attention of the Minister.

Mr. Cummins: I join with Senator Brian Hayes in calling for a debate on the competitiveness of indigenous Irish industry, with specific reference to the job losses at Waterford Crystal. The loss of 400 jobs in a town such as Dungarvan is devastating. It is not only the 400 jobs at the Waterford Crystal plant that will be lost, but also the jobs of the suppliers and the service providers for the plant. I call on the Minister for Enterprise, Trade and Employment to establish a jobs task force to secure replacement jobs for Dungarvan. I also call on the Minister to deliver on the promise of decentralisation and to speed up that process as a matter of urgency to assist the economy of Dungarvan.

In more general terms, I hope Waterford Crystal will invest the €30 million earned from the rezoning of property in its crystal division. The company gave a commitment to that effect and I hope the promise will be honoured.

Mr. Ross: I ask the Leader if we can have a debate on public service pay.

(Interruptions).

Mr. Ross: I do not know how much Senator O'Toole gets from the public service, but it is a lot more than I do.

Mr. O'Toole: I get exactly the same as Senator Ross.

(Interruptions).

Mr. Ross: The commissioner, Senator O'Toole, wishes to interrupt.

Mr. O'Toole: On a point of order, will Senator Ross tell the House if he returned his benchmarking award last year?

An Cathaoirleach: That is not a point of order. Senator Ross will deal with the Order of Business and address his remarks to the Chair.

Mr. Ross: If Senator O'Toole wishes to interrupt, perhaps the Chairman could ask if he is interrupting in his capacity as a commissioner or as a Senator.

(Interruptions).

An Cathaoirleach: Senator Ross should not be inviting or provoking interruptions. He will deal with the Order of Business and address his remarks to the Chair.

Mr. Ross: Public service pay should be debated. There is another benchmarking deal due in 2007 and that is a serious issue.

(Interruptions).

An Cathaoirleach: Senator Ross, without interruptions.

Mr. Ross: This will be a serious issue because it will be thrust upon us once again without debate. The House should have a debate on benchmarking before the event, rather than afterwards.

Mr. Ryan: Hear, hear.

Mr. Ross: We have never had a debate in advance of the benchmarking deals.

The issue is also important because there is a serious problem in the public service at the present time around benchmarking. The problem arises because certain public servants have not delivered on the performance targets that were set under the previous agreement. I call on the Minister for Finance to come into the House to tell us whether the performance targets agreed under benchmarking have been met by anybody in the public service. I suggest that benchmarking is a facade and a cosmetic way to pay the public service twice as much as the private sector.

Mr. O'Toole: That is ridiculous and a disgraceful intervention.

Dr. Mansergh: I had anticipated that the issue of public service pay would be raised and I prepared some figures. The analysis depends on what

period one examines, but if one takes public sector earnings from —

An Cathaoirleach: Is the Senator making a point on the Order of Business or does he wish to engage in a debate on the issue?

Dr. Mansergh: I have one brief point to make —

Mr. O'Toole: We would like to hear Senator Mansergh's point.

Mr. J. Phelan: Is the Senator seeking a debate?

(Interruptions).

Dr. Mansergh: This is an issue that requires a fuller debate. Between March 2001 and December 2004, public sector pay, excluding the health service, rose by 26.5%. The average industrial wage between 2000 and 2004 rose by 26.4%. That is 0.1% of a difference.

Mr. O'Toole: There is the answer for Senator Ross.

Dr. Mansergh: There is a good deal of misrepresentation around relativities, which depend on the period —

Mr. O'Toole: Hear, hear.

(Interruptions).

Dr. Mansergh: I believe that people in the public service do a good job and do not deserve the denigration that is continually directed at them from certain quarters.

An Cathaoirleach: The Senator can raise all of these points during the debate proper.

(Interruptions).

An Cathaoirleach: Many Senators are offering to speak and time is limited. I ask speakers to be brief or some will be disappointed.

Mr. Bannon: I request the Leader to invite the Minister for Agriculture and Food to this House as soon as possible to debate the inadequate levels of staff on the helpline for the single farm payment scheme.

Mr. Finucane: It is deplorable.

Mr. Bannon: Neither public representatives nor farmers can get through to the helpline. On 25 occasions last week I tried to access the helpline number and failed. Yesterday I encountered a similar situation. I contacted the Minister's private secretary and was told the Minister and her staff had a similar problem in accessing the helpline. The way farmers are being treated by this Government is scandalous.

Senators: Hear, hear.

Mr. Bannon: If a farmer makes a simple error he or she can lose his or her entire entitlement, whereas the Minister or an official can make a mistake and refer to it as a mistake.

An Cathaoirleach: Will Senator Bannon please resume his seat?

Mr. Bannon: It is a disgrace.

Ms White: I wonder if our guests from the Isle of Man in the Distinguished Visitors Gallery understand the different accents here today. They must wonder which side of the mainland they are on.

Mr. Finucane: That is out of order.

An Cathaoirleach: That is not relevant to the Order of Business. The Senators are wasting precious time.

Mr. J. Phelan: I hope the guests from the Isle of Man will understand my Kilkenny accent. I join with other Senators who have asked for a debate on concerns about the indigenous industrial sector. This follows the announcement that Waterford Crystal is to axe more than 400 jobs in Dungarvan and Waterford city. As a representative of the adjoining area of Kilkenny I know many people employed directly or indirectly in services related to the crystal factory. I also ask the Leader for a discussion on special needs education. The matter is urgent. In my time in this House there have been several discussions on the topic. The Government has always said it is spending extra money but we have seen a serious deterioration in the level of service provided, exacerbated by the announcement yesterday evening. I hope the Minister for Education and Science will reverse the decision.

I concur with Senators Minihan and Ryan on the attack in Cork. It was particularly heinous and I compliment the gardaí on their role in apprehending those responsible.

Ms O'Meara: I ask the Leader to examine a report published yesterday by the Economic and Social Research Institute on the rate of caesarean sections in our maternity hospitals. This is an issue of concern with its implications for the health of pregnant women and their babies. I ask the Leader to examine the possibility of inviting the Minister for Health and Children to the House to debate this important issue.

I refer to Tristan Dowse, who is in an Indonesian orphanage at the moment. Will the Leader ask the Minister for Justice, Equality and Law Reform to apply to the High Court to have independent legal representation made available to this young, vulnerable Irish citizen whose rights must be protected as the situation changes?

Mr. Coghlan: I was afraid the Cathaoirleach had forgotten about the small Senator at the back.

An Cathaoirleach: I could not forget about Senator Coghlan.

Mr. Coghlan: On the last occasion I raised this issue, the Leader replied that she would like to see a splurge, or words to that effect.

Ms O'Rourke: Did I say "splurge"?

An Cathaoirleach: I ask Senator Coghlan to come to the point.

Mr. Coghlan: The Minister for Finance said he would rely on the good sense of the Irish people. I presume he intended people not to splurge. I am referring to the significant shortfall in the pensions area. This affects most citizens and needs to be redressed. A number of the Members of the House have called on the Government to permit SSIA money to be invested in PRSAs and pension funds. This is in the national interest and is a matter which might be debated.

Mr. Browne: I agree with Senator O'Meara's request that the Tánaiste and Minister for Health and Children come to the House to debate the latest reports on caesarean sections. The controversial issue of home births should also be debated. Many mothers who wish to give birth at home are being prevented from doing so by the health services.

As it is May the end of the school year is approaching. Schools are learning of their allocations of funds for special needs assistants and in some cases are being refused temporary accommodation for school building programmes. The schools building programme is chaotic. It is time that the Health and Safety Authority investigated school buildings in the same way they investigated hospital accident and emergency departments. Children are taught in outrageous conditions. Schools sometimes do not have fire escapes or classroom windows. Following the success of the health and safety report on hospital accident and emergency departments we should now examine primary and secondary school buildings from a health and safety perspective for the sake of students and teaching staff.

Mr. Feighan: I also welcome my colleagues from Tynwald in the Isle of Man. They experienced hospitality while visiting Roscommon some months ago and had no problems understanding the accent.

An Cathaoirleach: Please speak on the Order of Business.

Mr. Feighan: I join Senator Ross in calling for debate on the serious issue of the public and private sectors. It should be a measured debate. My background is in business. Many businesses

are downsizing and the Government appears to be making the situation more difficult. If someone asked me ten years ago whether he or she should set up a business or seek Government employment, I would have advised the former option. However, I would now advise Government employment as the better option. I call for a measured debate——

Dr. Mansergh: As well as a factual one.

Mr. Feighan: The self-employed will look forward to a debate. We should fight for their rights.

Mr. Fitzgerald: With regard to special educational needs, the Government has a proud record on the delivery of services.

Mr. U. Burke: Some 70 people in the area are to lose their jobs.

Mr. Fitzgerald: I will not go into the details of this issue.

An Cathaoirleach: Does Senator Fitzgerald favour a debate on the issue?

Mr. Fitzgerald: With regard to the recent announcement, a special needs assistant is assigned to an individual schoolchild. No mechanism exists for redeployment. Discussion is ongoing on the redeployment of the 70 or 75 special needs assistants referred to and the matter should not be trivialised.

On the resignation in Coláiste Mhuire, Marino——

An Cathaoirleach: This matter is not on the Order of Business. We cannot hold a debate on it.

Mr. Fitzgerald: I am not debating but ask the Leader of the House to assist me in clarifying a point. Would the Leader agree that we all share the deep concern expressed on the resignation of the principal of Coláiste Mhuire, who is held in esteem throughout the education sector? We are also disturbed at the statements from the only Christian Brother on the teaching staff at that college and from Mr. Ó Murchú——

An Cathaoirleach: The Senator is in danger of abusing privilege by mentioning names.

Mr. Fitzgerald: I call on the Leader of the House to ask the Minister for Education and Science to ensure that the important educational needs of the students at the college are met. That is a primary concern.

Ms O'Rourke: I will not refer to our distinguished visitors other than to say how happy we are they are here. A day off renders everyone very frisky.

Mr. B. Hayes: We should try that more often.

Ms O'Rourke: We have it every weekend.

Senator Brian Hayes, the Leader of the Opposition, raised a matter about which we are all concerned, the devastating news about Waterford Crystal. I can only imagine the impact of the loss of that number of jobs in a town the size of Dungarvan. As Senator Cummins is aware I visited that plant twice during last autumn and winter. It is amazing that this number of employees are to be let go.

A debate has been requested on indigenous employment and competitiveness. I understand from a programme I heard this morning that one of the issues is the price of the dollar *vis-à-vis* the euro, which is an extremely serious one for the company. Another issue is that of marketing. I will seek a debate on the general issue of indigenous industry. We all regret very much what has happened to the Waterford Crystal factories.

Senator Brian Hayes also called for a debate on the loss of 70 special needs assistants jobs. As I understand it, the Minister for Education and Science is concluding her review on that matter. She is a person with great common sense and when she has concluded her review, I am sure she will not let those skilled people go. A redeployment system or whatever one might call it would be helpful in this respect. These are people with skills which have been honed in dealing with a particular child. However, if one is good with children who have a disadvantage, one can transfer that skill to another child in one's care. I hope that will be the outcome in this case. I will raise this matter with the Minister. I consider it is a suitable matter for debate.

Senator O'Toole raised the issue of the Marino Institute of Education. He spoke of intimidation there and it sounded like a house of mystery and mayhem involving issues concerning money and all the rest of it. The Senator asked for a debate or statements on the issue, the latter might be the way to deal with this matter. I will speak to the Senator after the Order of Business. As the story was revealed yesterday, we are a little in mysteryland about it because we do not know any of the details. It is difficult to get them. I heard the Senator speaking on the matter on radio yesterday. He obviously knows more about it than he has said, and I can understand how he does.

Senator Ryan raised the matter of the loss of skilled staff. He made the point that when crystal is fashionable tableware in the future, which it surely will be, such skills, which made that product so desirable, will be lost.

Senator Ryan also raised the matter of the criminal incident in Cork. Of all the crimes we have heard debated, this crime was dreadful. There were two aspects to it. One was that the children slept through the ordeal which was amazing. The other was that one of the criminals who was meant to be in charge fell asleep. There was some hope for people captured in such circumstances in that the criminals were not very professional. I agree with the Senator that the fact they have proven links with the IRA shows

how low and petty its members have sunk in terms of the level of activity in which they have become engaged. The Senator described the incident as "brutal", "squalid" and "criminal". They are terrific adjectives and so correct in this case.

Senator Ulick Burke raised the matter of the loss of SNA jobs and proposed the introduction of a panel system. I do not know how that would work but it should work. These people have honed their skills and those skills should not be lost. Senator Minihan endorsed what Senator Ryan said. He said these criminals should get no comfort or succour.

Senator Norris raised the matter of the loss of the special needs assistants jobs. He also raised the issue of accident and emergency departments, which was discussed at great length by Joe Duffy on his radio show. Joe has become a male Florence Nightingale.

Mr. Norris: More like Florence and Zebedee — it is time for bed.

Mr. O'Toole: Now we know how the Senator likes to spend his spare time.

Ms O'Rourke: Senator Finucane raised the matter of the loss of SNA jobs. The review in this regard should be concluded and the outcome made known shortly.

Senator Quinn raised the matter of intimidating behaviour displayed to those serving on juries. The Cathaoirleach rightly said this is a matter for the courts.

Senator Cummins raised the matter of job losses in Dungarvan. I know how he must feel about what has happened in his home town. He raised the matter of decentralisation and asked when jobs will be decentralised to that area. He said he hoped there would not be a renegeing of the promise of such jobs. I hope not in the case of Dungarvan and the south east. I will endeavour to find out what level of activity that process has reached.

Senator Ross referred to public service pay and asked for a debate on benchmarking before the next agreement is reached. That is a good idea. Senator Mansergh said that between 2001 and 2004, wage increases in the public and private sector were almost on a par, which is not how the matter was reported. If there is to be a reasoned debate it should be factual. I will endeavour to arrange one.

Senator Bannon said he had difficulty accessing the telephone helpline number of the Department of Agriculture and Food. I find all helplines of no use. First, no one answers and, second, when there is an answer one must press approximately 20 buttons before speaking to a person or being asked to telephone again.

Senator John Paul Phelan and Senator Quinn referred to the indigenous sector. Senator Phelan also raised the issues of special needs in education and the IRA attack in Cork.

[Ms O'Rourke.]

Senator O'Meara referred to the ESRI report detailing the significant increase in the numbers of women having Caesarean sections. This issue is worthy of debate because it has an impact on the fecundity and health of women. The Senator also asked the Minister for Foreign Affairs to ensure that Tristan Dowse receives independent legal representation.

Senator Coghlan wants us to put the SSIA's into pension funds. I repeat what I said previously, that is, it is our money and we will put it where we wish.

Mr. Coghlan: I want the Minister for Finance to address the issue.

Ms O'Rourke: He will not get his hands on my money. The Senator asked for a debate on the matter.

Senator Browne referred to home births. There is a constant debate on that issue. The established health service does not like people to have home births. It thinks that people cannot have babies in the absence of health service providers. This is always a contentious issue. The Senator said that the Health and Safety Authority should investigate primary and secondary schools, as happened with the health issue.

Senator Feighan asked for the debate on the public and private sectors to be measured and factual. I will seek to arrange such a debate next week.

Senator Fitzgerald, who is aware of what is happening in the education sector, referred to special needs in education and the redeployment of staff and to events at Marino College. We must get the facts on what happened in the college. The Department of Education and Science said that it is not a matter for it, even though it provides a *per capita* grant per student. We need an explanation of what happened.

Order of Business agreed to.

International Interests in Mobile Equipment (Cape Town Convention) Bill 2005: Committee and Remaining Stages.

Sections 1 to 3, inclusive, agreed to.

SECTION 4.

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

Mr. P. Burke: This is an important section which gives the country the protection of the law. It will result in a decrease in monetary interest when leasing aircraft and so on. It will also help poorer countries to acquire aircraft and modernise many fleets. Given that it will be of major benefit to many countries, why have just six countries signed up to the convention?

Minister for Transport (Mr. Cullen): Other European countries are going through the same process as Ireland and we expect to see quite a large number of countries signing up to the convention over the coming months. As the Deputy knows, the convention will come into effect when eight countries have signed up to it. Given that the registry is to be located in Ireland, we obviously want to be to the fore in delivering on this.

The Deputy is correct that the convention will be of enormous benefit in terms of air transport and Irish airlines will benefit greatly therefrom. On orders that have already been made and others which I hope will be made in the near future, Irish airlines will be able to purchase aircraft at more favourable rates than those that now obtain in the absence of the convention.

Mr. Ryan: I stated on Second Stage that I was surprised by the absence of an EU dimension. The Minister may have mentioned this; I heard most of his reply but may have missed some. Does the lack of an EU dimension not have implications? Do our trade relations and various contractual or treaty-related relations with the European Union not have implications? Will every EU state be acting entirely independently in this matter? Consider airbuses in this regard. Half their parts may be manufactured in Germany and almost all of the other half in France, while the rest may be manufactured in Spain and Britain. The EU does our negotiating in terms of world trade and it therefore surprises me that it seems to be a question of every country for itself in this case.

Mr. Cullen: It is open to every country to sign up to the convention in its own way. However, the difficulties manufacturers and financiers of aircraft are experiencing are not necessarily focused in Europe. The financial base and regulatory legal base in Europe are quite good. The difficulty is that an aircraft is a mobile not a fixed asset. If an airline goes broke and its aircraft happen to be located in another country, it is often difficult to get the first charge on the airline. This is why the convention is very much in the interests of airlines. It allows them to obtain much more favourable rates.

The EU Commission will also sign up to the convention.

Mr. Ryan: Will it?

Mr. Cullen: Yes. All the states in Europe will do so and I have no reason to say they will not.

Mr. Ryan: I have a few questions on the contents of the Capetown convention, none of which is very awkward. Will we be able to address them when we discuss the Schedule to the Bill?

An Cathaoirleach: Yes.

Question put and agreed to.

Sections 5 to 7, inclusive, agreed to.

SECTION 8.

Question proposed: "That section 8 stand part of the Bill."

Mr. Ryan: Does "all courts and tribunals" refer to all courts and tribunals in this State?

Mr. Cullen: Yes.

Question put and agreed to.

Section 9 agreed to.

SECTION 10.

Question proposed: "That section 10 stand part of the Bill."

Mr. P. Burke: Is it correct that the Government is investing €40,000 in this company? This seems to be a very small amount to obtain a 20% shareholding in a company. Will the Government have any directors on the board or will it just have the shareholding? The Bill states clearly that the State will not have to invest further in the company. It states the company will not be profit-making and will be self-financing. However, if it starts to lose money, I presume the fact that the State will have a 20% shareholding therein will mean the Government will have to come to its aid. Will any other country have a shareholding in the company or is the Government taking a 20% shareholding therein just because it is to be based in Ireland?

Mr. Cullen: The Senator is right in that in some respects it is a statement by Ireland of a commitment to this company and its work. On Second Stage I said that Ireland won this responsibility and registry despite tough competition from other countries, particularly Singapore and Canada. It was a tribute to all involved that we won the contract to locate this company here.

The 20% shareholding is a gesture on behalf of the Government. As the Senator says, €40,000 is a small sum but given the market indications and the comments of other companies, it will be self-financing. There is no doubt about that. An assistant secretary in my Department is a director of the company on behalf of the Government. We are under no obligation to provide extra funding. This is a gesture to establish the company and demonstrate our intent for the future.

Mr. Dooley: Will the operation of the register yield any profits? If so, to what purpose will they be put?

Mr. Cullen: That is an important question but no profits are envisaged. The company will be self-financing and its income will be reinvested in the company to conduct its business.

Mr. Ryan: The explanatory memorandum for this Bill is extremely helpful, which is not always the case with such memoranda. I will not, however, celebrate the major spin-off benefits this company provides for legal and accounting firms. They do not deserve my sympathy but I acknowledge the benefit the company can bring in consolidating company activities here.

Mr. Cullen: The Senator is correct. A significant amount of aircraft leasing finance is conducted through the Irish Financial Services Centre. Ireland has captured a large worldwide market in financing through its legal base, regulatory regime and finance companies. A key factor in winning this contract was Ireland's commitment to that activity. The legal base for this company is a cutting-edge development.

Question put and agreed to.

SECTION 11.

Question proposed: "That section 11 stand part of the Bill."

Mr. Ryan: This is a somewhat worrying section. It states:

A court or tribunal may not make an order or decision that would have the effect of binding the Registrar if the order or decision would prevent the Registrar from providing the services prescribed . . .

Is that constitutional? It seems unconstitutional to suggest that we can write legislation which tells the courts they can never make an order.

I do not wish to be awkward but this section contains a sweeping statement. While I do not suggest it will happen, a court may wish to commit the registrar to prison for fraud but this section implies he or she would be immune from any judicial supervision of his or her activities. The aim of the section is clear but it seems rather loosely drafted. Although I have not endeavoured to amend it, I encourage the Minister to reconsider the wording before the legislation passes through the Dáil.

I understand the Minister does not want the registrar to be entangled in legal actions brought by malicious people trying to avoid paying their debts. Nevertheless, we should avoid creating an entity which is above the law. I am sure the Attorney General advised the Minister that it was all right, but the section is problematic if it provides a certain course of action may never be taken, if it prevents the registrar from doing his job and if the courts have to stay out of the matter. This is not a major issue but I am concerned about the wording.

Mr. Cullen: Like Senator Ryan, I am not a legal person in the sense that he described. The Office of the Attorney General and the Parliamentary Counsel have gone through the Bill with a fine-tooth comb. If they thought the wording was

[Mr. Cullen.]

unconstitutional, it would not be in the Bill. The Senator is, however, right in a sense. The purpose of section 11 is to prevent one dispute from affecting the services provided for other registry users. The register itself is voluntary. However, the benefits of being a member of the registry are substantial.

Mr. Ryan: I accept that.

Mr. Cullen: It would be unusual for people not to want to be in the registry. As the Senator said, the purpose is to prevent the whole system getting tied up and all the other registry signatories and members being affected, so that people can still benefit from their services. Now that Senator Ryan has made the point, I will consider the matter again before bring the Bill to the Dáil.

Question put and agreed to.

Section 12 agreed to.

SECTION 13.

Question proposed: "That section 13 stand part of the Bill."

Mr. Ryan: I was reading through the Bill and looking for things to ask the Minister. Despite my best efforts, I could not think of any amendments. Section 13 is peculiarly worded. I do not remember sections of other Bills concerning ministerial orders providing that "The Minister shall arrange for every order made under this Act to be laid before each House of the Oireachtas as soon as practicable after it is made." I thought the usual wording was "every order made shall be laid before the Houses of the Oireachtas". Is there somebody new in the Office of the Parliamentary Counsel? Is there a reason for the slightly different wording?

Mr. Cullen: I am not aware of any particular reason for that.

Mr. Ryan: I do not think it makes much difference.

Mr. Cullen: The wording has the same effect.

Question put and agreed to.

Sections 14 to 16, inclusive, agreed to.

SCHEDULE 1.

Question proposed: "That Schedule 1 be Schedule 1 to the Bill."

Mr. Ryan: I have a few questions regarding Schedule 1. The first relates to Article 2, on page 11. I would like the Minister to elaborate on the role that what are termed "railway rolling stock" and "space assets" are playing in the Bill. The context of the Bill is helicopters and other aircraft, therefore, I was a little perplexed about

these references, particularly space assets. I am curious about this, and would like to know more.

Mr. Cullen: Perhaps I did not deal with this quite correctly at the previous Stage. The convention covers a whole range of things. The protocol deals specifically with what we are dealing with in the Bill. There will clearly be further protocols, and we will be returning to deal with those later, possibly by order. That will allow us to deal with some other interests. The purpose of the "space assets" provision is to deal with the commercial operation of satellites, which is part of the world in which we live today, and that will be increasingly the case. A considerable number of satellites are now launched by the private sector and, nowadays, even some smaller companies are able to finance this.

Acting Chairman (Mr. J. Walsh): Is the question agreed to?

Mr. Ryan: Not quite, although I will not hold up Members for long. I have a question on Article 44.1, on page 27. It states: "The courts of the place in which the Registrar has its centre of administration [which will be in this country] shall have exclusive jurisdiction to award damages or make orders against the Registrar." I am not sure how the protocol's provision that orders may be made against the registrar is reconcilable with section 11, which provides that no order may be made against the registrar that would stop him doing what he is supposed to be doing.

Mr. Cullen: I want to ensure I have the right answer for the Senator. The difference is that an action may not be taken against the registry in another country. An action may only be taken against the registry under the laws of the land in the country where the registry is located, which is Ireland.

Question put and agreed to.

SCHEDULE 2.

Question proposed: "That Schedule 2 be Schedule 2 to the Bill."

Mr. Ryan: I am happy that the provisions of Schedule 2 are included, but I wonder about the reasons behind them. Articles 1.2(a) and 1.2(b), on page 35, define aircraft and aircraft engines. Article 1.2(b) mentions "aircraft engines (other than those used in military, customs or police services)". Is there a reason for that expulsion? The less trade there is in such items the happier I would be.

Mr. Cullen: The thrust of the Bill is concerned with commercial operations. As I think I made clear on Second Stage, the Bill does not get involved with military operations of any hue, shape or size, or with state operations. What we might interpret as state operations might carry different connotations or involve different power

bases in other countries. We need to be clear about that.

Mr. Ryan: So the provisions are entirely about civilian aircraft engines.

Mr. Cullen: They are entirely about civilian aircraft engines.

Mr. P. Burke: Is the convention concerned with all types of aircraft, including helicopters?

Mr. Cullen: It covers all civilian, commercial operations.

Mr. P. Burke: Including helicopter operations.

Mr. Cullen: Yes.

Acting Chairman: Is the question agreed to?

Mr. Ryan: I have a further brief point. I wish to compliment whoever wrote the definition of a helicopter on page 36. It is to the credit of whoever drafted it and whichever international body is concerned. If I were asked to write a definition of a helicopter, I would not do as well. It is very good and I am impressed.

Mr. Dooley: Senator Ryan is an engineer.

Mr. Ryan: Indeed, I am an engineer.

Mr. Cullen: Is Senator Ryan happy with that?

Mr. Ryan: Yes. I do not think that the Minister drafted Schedule 2, but I will give him credit for it.

Mr. Cullen: Senator Ryan knows well I did not draft the Schedule.

Question put and agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Mr. P. Burke: Can any sanctions be taken against countries that do not sign up to the convention?

Mr. Ryan: The marketplace.

Mr. P. Burke: If an aircraft moves to such a country, and if that country has a national air carrier flying into the jurisdiction of the country with the problem, can any sanctions be taken?

Minister for Transport (Mr. Cullen): The short answer is "No", at least as far as the Bill is concerned. I am sure that sanctions may be taken under existing law, but it is far better to have this

legislation in place, so that it is clear that those who voluntarily become members of the register, which is both open and voluntary, have the protection of the convention, whereas those outside it will be operating in a different way. Airlines that do not operate under the convention will be paying substantially more for their aircraft than those that will operate under it, as the financial arrangements for them will be far better. For instance, Ryanair's current huge order means that it will be an immediate beneficiary under the proposed financial arrangements. Ryanair will benefit enormously from that.

Mr. Dooley: We talked a lot the last day about the importance of this Bill in terms of what it might do for airlines with regard to ensuring continued development of low-cost carriers and also, perhaps, a change of emphasis away from forcing down airport and other related charges.

Senator Paddy Burke referred to countries which might remain outside the convention. Will such a situation provide a safe haven for airlines which are less than scrupulous and seek to defy the courts, the provisions of the Bill or its protocols? Will they be allowed to fly into any or one particular destination which is not a signatory to the convention? Will it effectively limit the extent to which the convention will work? If one jurisdiction does not sign up, will it act as a safe haven for unscrupulous operators?

Mr. Cullen: I understand the Senator's point but do not agree because it is quite clear that all the main players will want to sign up to the convention. The main manufacturing countries, namely, the United States and European countries, will want to sign up. The major finance houses which will provide resources to the individual airlines to purchase aircraft will do so at a significant advantage in terms of financing arrangements. Those countries located outside of the convention will be at a significant disadvantage in terms of being able to buy and fund the purchase of aircraft. Even if they do so, they will pay a premium.

The real benefit is in continuing to ensure the passenger gets the best possible value in terms of ticket price by being able to fund airline purchase at as low a cost as possible without compromising integrity. Countries that opt out will be at a disadvantage. It will be very difficult for many of those airlines to compete because the financial base would be completely wrong.

Airlines that are party to the convention, whether Irish or otherwise, which go into countries that are not party will be covered by arrangements under the registry. That is the major protection on offer.

Mr. Cullen: I thank Senators for participating in this helpful and interesting debate. It is non-contentious legislation and good people have worked hard to win this internationally prestigious registry for Ireland. It enhances the basis

[Mr. Cullen.]

of our financial systems and the esteem in which we are held internationally. This adds weight as we move forward. I thank Senators on all sides of the House for their support.

Mr. Ryan: I am not allowed mention the name of the person who set up the International Financial Services Centre because he is not acceptable. The IFSC is one of a number of very enlightened ideas that Mr. Haughey had while Taoiseach. Regardless of other matters, he deserves credit for a considerable amount of vision in this regard. He received much mockery about the IFSC from places not far from where I sit. However, he has been more than vindicated in respect of that decision. These issues would not matter as much to us nor we would have such possibilities without the IFSC.

Mr. P. Burke: I agree with the Minister and wish both him and his officials well with regard to this legislation. The cost of air traffic has been considerably reduced in the past number of years, and this legislation will also help in that regard. I welcome the Bill.

Mr. Dooley: I also welcome the passage of the Bill and compliment the Minister, his staff and all involved in negotiating the Cape Town Convention and Protocol. As I said on Second Stage, it is important to maintain low-fare business in Ireland because it is vital in ensuring the growth and development of our tourism industry. A number of flights announced by Ryanair in the past are commencing from Shannon Airport today, which is a welcome decision. We must also recognise the tremendous work done by the Department and others in ensuring the registry is based in Ireland. As the Minister said, this is extremely prestigious.

I do not agree with Senator Ryan on too many occasions—

Mr. Ryan: Senator Dooley is coming around.

Mr. Dooley: I agree with his recognition of the work done by former Taoiseach, Mr. Charles Haughey, with regard to the IFSC. I have long recognised the importance of that decision. I do not know to what Senator Ryan refers when he says Mr. Haughey's name is not popular. It is extremely popular with myself and my colleagues, and it is great to have an opportunity to recognise the work done with regard to the IFSC. It has placed Ireland to the fore of international markets as a centre of excellence in terms of professionalism and our legal and financial expertise. It has allowed us to develop to a point where we can quite seamlessly win a contract such as this. I have not heard it announced in the media, because we regularly get these types of projects as a result of the foundation laid by Mr. Haughey, as well as other business people involved in the endeavour.

Question put and agreed to.

Sitting suspended at 3:45 p.m. and resumed at 4 p.m.

Maritime Safety Bill 2004: Report and Final Stages.

Acting Chairman: Before we commence, I remind Members that a Senator may only speak once on Report Stage except for the proposer of the amendment, who may reply to the discussion thereon. Report Stage amendments must be seconded.

Government amendment No. 1:

In page 5, to delete lines 7 to 15, and substitute "AND CODES OF PRACTICE FOR VESSELS, TO PROHIBIT CERTAIN ACTS ON OR WITH VESSELS,".

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher): This is simply a drafting amendment to the Long Title of the Bill to avoid unnecessary detail. Anyone who examines the Long Title will agree it is too long. The inclusion of "any codes of practice for vessels, to prohibit certain acts on or with vessels" is a refinement that makes much sense.

Amendment agreed to.

Government amendment No. 2:

In page 5, line 30, to delete "section 39" and substitute "section 36".

Mr. Gallagher: This is a drafting amendment which is required to make the correct cross-reference to section 36 of the Bill which was inserted on Committee Stage. The reference to section 39 is an inadvertent error; it should read section 36.

Amendment agreed to.

Acting Chairman: Amendments Nos. 3 and 35 are related and will be taken together by agreement. Is that agreed? Agreed.

Government amendment No. 3:

In page 6, between lines 27 and 28, to insert the following:

"3.—Sections 33 to 37 (inserted by section 44(11) of the Act of 2000) of the Act of 1992 are repealed."

Mr. Gallagher: This amendment inserts a new section 3 in Part 1 of the Bill, which will replace the existing section 35. It covers the necessary repeal of three additional sections of the 1992 Act, namely sections 35, 36 and 37, which are being replaced by new sections 20 and 21 to be inserted in the Bill by amendments Nos. 21 and

22 and new section 33 to be inserted by amendment No. 30. It is fairly straightforward.

Amendment agreed to.

Government amendment No. 4:

In page 6, between lines 27 and 28, to insert the following:

“4.—The expenses incurred by the Minister and the Minister for the Environment, Heritage and Local Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.”.

Mr. Gallagher: The amendment inserts a new section 4 in Part 1 of the Bill, which arises from concerns expressed on Committee Stage in this House about resources to implement the Bill. It makes clear that any expenses of the Minister for Communications, Marine and Natural Resources in preparing and promulgating codes of practice under Part 3 of the Bill and generally operating the Bill and of the Minister for the Environment, Heritage and Local Government under section 47 in administering this Bill when enacted will be funded by the Exchequer. Such a provision is a standard provision in legislation that extends the powers and functions of Ministers and has arisen out of the Committee Stage debate.

Amendment agreed to.

Government amendment No. 5:

In page 7, to delete lines 10 to 12, and substitute the following:

“local authority, but excluding waters under the control or management of a harbour authority or Waterways Ireland;”.

Mr. Gallagher: This is merely a drafting amendment correcting a typographical error in the definitions section of the Bill.

Amendment agreed to.

Acting Chairman: Amendments Nos. 6, 10 and 11, 13 to 17, inclusive, 21 to 24, inclusive, and 34 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 6:

In page 8, to delete lines 23 to 26.

Mr. Gallagher: These amendments are simply consequential to amendments Nos. 21 and 22 which insert two new sections in the Bill, namely sections 20 and 21. Its purpose is to restate in updated terms sections 35 and 36 of the Merchant Shipping Act 1992 as inserted by subsection 44(11) of the Merchant Shipping (Investigation of

Marine Casualties) Act 2000, relating to careless or dangerous navigation or operation of vessels.

Amendment agreed to.

Acting Chairman: Amendments Nos. 7 to 9, inclusive, are related and may be taken together by agreement. Is that agreed? Agreed.

Mr. McCarthy: I move amendment No. 7:

In page 8, line 28, to delete “may” and substitute “shall”.

The Bill in its Long Title claims to be a Bill for regulating and controlling the use of recreational craft. However, while it permits this to be done, it does not require it to be done and this amendment reflects that. Amendment No. 8 is a drafting amendment. The words “regulating or controlling the operation of craft” might be interpreted to limit in some way the matters that can be dealt with by the by-laws. In any case, there is a grammatical problem with the existing lines six and seven which refer to the operation of craft by local authorities, which is clearly ambiguous. On Committee Stage, the Minister asserted it was necessary to define the scope of the powers but in our view this is not correct as the scope is spelled out later in the actual section itself.

Amendment No. 9 seeks to insert on page 9, between lines 13 to 14 “such other matters as in the opinion of the authority are concerned are ancillary or related to the foregoing matters”. This amendment aims to give some flexibility to the Act to ensure the by-laws can be comprehensive. For example, a by-law prohibiting a person from being carried in a pleasure craft which is unlawfully operated might be held to be outside the scope of the requirement that the by-laws regulate the operation of craft. Accordingly, there is a good case for a general “catch-all” clause. This is not to give local authorities *carte blanche*, but provides some extra flexibility.

Mr. McHugh: I second the amendment.

Mr. Gallagher: I have taken advice on this since it was debated at length with Senator O’Meara on Committee Stage. My advice is that it is a matter for the relevant authority to decide whether there is a need to make by-laws under section 4 of the Bill. The making of by-laws is a lengthy process involving public consultation of at least one month and should only be undertaken if there is clear need.

Given the many important tasks which the relevant authorities must undertake, it would clearly be a waste of effort and resources to require them needlessly to make such laws. I am satisfied that any authority needing to make such by-laws has full powers to do so under section 4 of the Bill. This is a clear advance over the current position for all such authorities. If one examines the current position, local authorities can only make by-laws with regard to property they own, while under this Bill, they can go much further. It may

[Mr. Gallagher.]

not be necessary for certain local authorities to make by-laws whereas if we accept the amendment and delete “may” and substitute “shall”, there would be an onus on local authorities to make by-laws which could be unnecessary.

Regarding amendment No. 8, the words “regulating” or “controlling the operation of craft” are essential policies and principles limits for any by-laws to be made under section 4 of the Bill. This is fully in accordance with the constitutional provisions for secondary legislation. The sole purpose of section 4 is to allow relevant authorities to make by-laws to regulate or control the operation of certain craft and other related activities. I am advised that section 4 should not be open-ended. The Oireachtas is responsible for primary legislation. Secondary legislation, whether it be introduced by the Minister by way of an order, must be within the framework of the primary legislation. We must state reasonably clearly what local authorities can do within principle and policy parameters.

I am advised that if this amendment No. 9 was accepted, it would not be in accordance with the constitutional provisions for secondary legislation. As I said earlier, the Oireachtas has responsibility for primary legislation, set out in the principles and policies limits within which secondary legislation may be made. I am advised there can be no question of open-ended powers for relevant local authorities to make by-laws at will. I reflected earlier that if I thought any amendments would improve the Bill, I would be happy to accept them. I am advised that this amendment would not improve the Bill.

Amendments, by leave, withdrawn.

Amendments Nos. 8 and 9 not moved.

Government amendment No. 10:

In page 11, line 21, to delete “or of section 35 or 36 of the Act of 1992” and substitute “, 20 or 21”.

Amendment agreed to.

Government amendment No. 11:

In page 11, lines 42 and 43, to delete “or 8 or section 35 or 36 of the Act of 1992” and substitute “, 8, 20 or 21”.

Amendment agreed to.

Government amendment No. 12:

In page 12, line 22, to delete “in” and substitute “in or on”.

Mr. Gallagher: This is a drafting amendment to cover persons on waters, for example, on boats, as well as persons in waters, for example, swimming.

Amendment agreed to.

Government amendment No. 13:

In page 13, line 8, to delete “section 35 or 36 of the Act of 1992” and substitute “*section 20 or 21* involving the careless or dangerous navigation or operation of a craft”.

Amendment agreed to.

Government amendment No. 14:

In page 13, lines 12 and 13, to delete “section 35 or 36 of the Act of 1992” and substitute “*section 20 or 21* involving the careless or dangerous navigation or operation of a craft”.

Amendment agreed to.

Government amendment No. 15:

In page 13, lines 39 and 40, to delete “section 36 (inserted by section 44(11) of the Act of 2000) of the Act of 1992” and substitute “*section 21*”.

Amendment agreed to.

Government amendment No. 16:

In page 14, lines 9 and 10, to delete “section 35 (inserted by section 44(11) of the Act of 2000 of the Act of 1992” and substitute “*section 20*”.

Amendment agreed to.

Government amendment No. 17:

In page 14, lines 12 and 13, to delete “section 36 (inserted by section 44(11) of the Act of 2000 of the Act of 1992” and substitute “*section 21*”.

Amendment agreed to.

Government amendment No. 18:

In page 18, line 10, to delete “unsafe” and substitute “in such a defective condition as to be unsafe”.

Mr. Gallagher: This is a technical drafting amendment that is necessary for section 19(1) of the Bill.

Amendment agreed to.

Government amendment No. 19:

In page 18, to delete lines 13 and 14 and substitute the following:

“until such time as the vessel—

(i) if it is a pleasure craft (within the meaning of section 20 of the Act of 1992) is made to his or her satisfaction seaworthy, or

(ii) if it is a vessel other than a pleasure craft or being a pleasure craft and he or she considers it necessary, is made seaworthy to the satisfaction of a surveyor of ships (within the meaning of section 724 of the Merchant Shipping Act 1894) by a certificate issued in that behalf by the surveyor and produced to him or her.”.

Mr. Gallagher: This amendment is needed to amend section 19 of the Bill as inserted on Committee Stage so that in general, the seaworthiness or otherwise of vessels may be determined by a surveyor of ships who is expert in such matters. An exception is provided for in the case of pleasure craft, however, where a member of the Garda Síochána or an authorised person could decide, without reference to a surveyor of ships, how such a craft could be made seaworthy and released from detention. If a person stops a vessel because it appears unseaworthy, it may be necessary to get the opinion of a surveyor in order to convince that person that the vessel is seaworthy.

Amendment agreed to.

Government amendment No. 20:

In page 18, line 17, after “detention” to insert “and any survey of the vessel”.

Mr. Gallagher: This further amendment to section 19 of the Bill, as inserted on Committee Stage in the Seanad, ensures that the reasonable survey costs incurred by the authorities will be recoverable as a condition for the release of the vessel that has been seized and detained under section 19 on grounds of unseaworthiness.

Amendment agreed to.

Government amendment No. 21:

In page 18, between lines 17 and 18 to insert the following:

“20—(1) A person shall not in Irish waters navigate or operate a vessel without due care and attention to persons in or on those waters or on land, within the State, adjacent to those waters.

(2) A person who, without reasonable excuse, contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding one month or both.”.

Amendment agreed to.

Government amendment No. 22:

In page 18, between lines 17 and 18 to insert the following:

“21—(1) A person shall not in Irish waters navigate or operate a vessel in a manner (including at a speed) which, having regard to all the circumstances of the case (including the condition of the vessel or class of vessel, the nature, condition and use of the waters and the amount of maritime traffic, or number of people, which or who then actually are, or might reasonably be expected then to be, on or in those waters) is dangerous to persons in or on those waters or land, within the State, adjacent to those waters.

(2) A person who, without reasonable excuse, contravenes subsection (1) is guilty of an offence and

(a) where the contravention causes death or serious bodily harm to another person, is liable, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine not exceeding €100,000 or both, and

(b) in any other case, is liable, on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both.

(3) Where, when a person is tried on indictment or summarily for an offence under this section, the jury, or in the case of a summary trial the District Court, is of opinion that the person was not guilty of an offence under this section but was guilty of an offence under section 20, the jury or court may find the person guilty of an offence under that section and the person may be sentenced accordingly.”.

Amendment agreed to.

Government amendment No. 23:

In page 18, between lines 17 and 18 to insert the following:

22—“Sections 20 and 21 do not apply to a crew member, other than the skipper, who is not helming a pleasure craft (within the meaning of section 20 of the Act of 1992) which is a yacht or sailing boat powered wholly or mainly by sail.”.

Amendment agreed to.

Government amendment No. 24:

In page 18, between lines 17 and 18 to insert the following:

“23—In a prosecution for an offence under section 20 or 21 it is a defence for a person to show that

(a) he or she was acting under direct instructions from the person in command or

in charge of the vessel concerned or a person in charge of him or her and it was not unreasonable in the circumstances to so act, or

(b) he or she had been instructed by that person to perform a task which he or she could not reasonably perform or had not been adequately instructed to perform.”.

Amendment agreed to.

Acting Chairman: Amendments Nos. 25 and 26 are related and will be taken together by agreement. Is that agreed? Agreed.

Government amendment No. 25:

In page 18, line 21, to delete “a person” and substitute “such a crew member or person on board the vessel”.

Mr. Gallagher: These two related amendments address the points raised by Senator Kenneally on Committee Stage about the scope of section 20 of the Bill, which was inserted at that Stage. The amendments make it clear that section 20 specifically targets reckless behaviour and other bad behaviour by any person in command or in charge of a vessel who endangers the crew or other persons on board the vessel. Existing sections 35 and 36 of the 1992 Act are now to be comprehensively updated and restated by amendments Nos. 21 and 22 outlawing careless or dangerous navigation or operation on any vessel. These provisions are designed to protect all other persons using waters generally, as well as other vessels, against such bad behaviour.

Mr. Kenneally: I thank the Minister of State for responding to what I said on Committee Stage. Could he confirm whether the provisions also apply to those whose recklessness causes injury or is a danger to those in other vessels?

Mr. Gallagher: Section 22 deals with careless or dangerous navigation or operation of a vessel.

Amendment agreed to.

Government amendment No. 26:

In page 18, line 22, to delete “person” and substitute “crew member or person”.

Amendment agreed to.

Mr. McCarthy: I move amendment No. 27:

In page 19, line 17, to delete “offence or annoyance” and substitute “serious offence or serious annoyance”.

We all subscribe to the notion that no one should be allowed to cause offence or annoyance. The definition of offence or annoyance in the Bill is possibly too broad. There is a provision in the

Public Order Act regarding serious offence or serious annoyance, which would suffice as a replacement for the words “offence or annoyance” on page 19 of the Bill in terms of taking the criminal offence element out of the interpretation.

Mr. McHugh: I second the amendment.

Mr. Gallagher: I see where Senator McCarthy is coming from regarding the insertion of the word “serious” before “offence” and “annoyance”. I am advised by the Parliamentary Counsel that it does not lessen the seriousness of the offence in any way. Inserting the word “serious” would qualify both offence and annoyance and is not necessary.

Amendment, by leave, withdrawn.

Government amendment No. 28:

In page 22, line 20, to delete “in, on or adjacent to Irish waters” and substitute “in or on Irish waters or on land, within the State, adjacent to those waters”.

Mr. Gallagher: This is a necessary drafting amendment to clarify that, in taking enforcement action under section 30, a member of the Garda Síochána or any authorised person may only enter land in the State.

Amendment agreed to.

Government amendment No. 29:

In page 23, between lines 16 and 17, to insert the following:

“32.—Proceedings for an offence under this Part may be prosecuted summarily by the Minister.”.

Mr. Gallagher: This amendment inserts a new section 32 and fills a vital gap in the Bill by empowering the Minister to prosecute summary offences under Part 3 of the Bill.

Amendment agreed to.

Government amendment No. 30:

In page 23, between lines 16 and 17, to insert the following:

“33.—Any costs of the Minister incurred in or on connection with the prosecution of a person for an offence under this Part for which a person is convicted may be recovered by the Minister as a debt due and payable to the Minister by the convicted person.”.

Mr. Gallagher: This relates to a new section 33 and is designed to replace section 37 of the Fore-shore (Amendment) Act 1992 by providing for

recoupment of the Minister's costs in connection with the successful prosecution of persons for any offence under Part 3 of the Bill and not only offences under sections 20 and 21, which replace sections 35 and 36 of the 1992 Act and to which section 37 of that Act applies. Entitling a Minister to recoup such costs is clearly appropriate.

Amendment agreed to.

Government amendment No. 31:

In page 23, between lines 16 and 17, to insert the following:

“34.—This Part does not apply to—

(a) a warship, naval auxiliary or other vessel in the service of the Defence Forces or the navy or military of another state, or

(b) a vessel being used for coast guard, customs or police or rescue purposes.”.

Mr. Gallagher: This new section 34 arises out of the detailed discussion about the scope of the Bill held in this House on Committee Stage. It is recommended by the Parliamentary Counsel and colleagues in the Attorney General's office to rule out frivolous or vexatious litigation. This makes clear that Part 3 of the Bill is designed to promote the safe operation of all vessels other than a limited number of dedicated vessels, namely, those in the service of the Defence Forces and the customs, coastguard or rescue services, for which there are separate provisions in place to ensure proper practices are followed.

Amendment agreed to.

Government amendment No. 32:

In page 23, between lines 26 and 27, to insert the following:

“‘operate’ in relation to a vessel, means—

(a) doing anything which relates directly to the helming, steering, sailing or navigation of the vessel or,

(b) operating nautical equipment relating to the vessel's intended purpose or use at sea or in waters (including the opening or closing of any part of the vessel or raising or lowering any ramp or gangway to facilitate the boarding onto, or disembarkation from, the vessel of passengers or vehicles);”.

Mr. Gallagher: This amendment also arises from the detailed discussion here on Committee Stage about comprehensive and rigorous maritime safety provisions. This amendment is recommended by the Parliamentary Counsel and the Office of the Attorney General to fill a major gap in the law. It makes clear the meaning of the term “operate” in connection with any vessel to establish whether a person has any responsibility for anything untoward that involves the vessel and

results in a loss of life or injury to persons. Thus, the term “operate”, as now being defined for the provisions of Part 3, would cover any reckless operation of essential vessel equipment or failure to operate such equipment properly or at all when full and proper operation is required, for example, as tragically occurred at Zeebrugge when the hull doors of the ferry *Herald of Free Enterprise* were left open, causing the ferry to capsize with a considerable loss of life on 6 March 1987.

Amendment agreed to.

Government amendment No. 33:

In page 28, line 20 after “with” to insert “the”.

Mr. Gallagher: This is a drafting amendment.

Amendment agreed to.

Government amendment No. 34:

In page 31, to delete lines 1 to 11.

Amendment agreed to.

Government amendment No. 35:

In page 31, to delete lines 12 and 13.

Amendment agreed to.

Government amendment No. 36:

In page 38, to delete lines 16 to 40.

Mr. Gallagher: This amendment is required to delete section 40 of the Bill, which is superseded by Part 4 as inserted on Committee Stage in the Seanad. The deletion was listed in the Seanad's list on that Stage but was overlooked during the proceedings.

Amendment agreed to.

Bill, as amended, received for final consideration.

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

Mr. O'Toole: I thank the Minister and his officials for doing fine work on this but there is one issue I wish the Minister of State to consider that may have been raised with him previously. Upon examining section 16 concerning authorised officers, it occurred to me that there is specific reference in all other legislation to the role of the harbour master. As both the Minister of State and I know, the harbour master is crucial to the general operation of harbours in ensuring the implementation of Acts.

I have received representations about a difficulty arising from this Bill because harbour mas-

[Mr. O'Toole.]

ters are not specifically mentioned. I ask the Minister of State to examine this matter with a view to determining whether further work is needed before it is introduced in the Dáil. A risk concerning certain ambiguities surrounding the role of the harbour master or the dilution of this role by the Bill exists, in particular where the harbour master is appointed by some form of harbour authority and must have his or her position sanctioned by the Garda or the Minister. There are problems of transition that may just be house-keeping, which can be dealt with quickly. I have not examined this Bill in great detail but there may be more significant problems.

Our harbour masters are referred to in all relevant legislation, from primary legislation to by-laws. I fear that a smart Alec will challenge the harbour master's role and find we have left a gap in the Bill. This is my residual worry. The harbour master is recognised internationally as the appropriate person for the role. If one arrives in a port in the Mediterranean, the south of England or the west of Ireland, the person in charge is the harbour master. A harbour master is appointed by local authorities to manage harbours under their jurisdictions and by-laws. Rosslare, where the local authority appoints the harbour master, is another example of what I am talking about.

Does this legislation have an implication for the Sea Pollution Acts, the Waste Management Acts, European directives or the role of the harbour master? It is important to put this on the record. The Minister of State and I have trust and confidence in the fantastic work harbour masters have done around the country. Is it not important to underline and reinforce their authority and our trust and confidence in them by having them mentioned in the Bill? This significant legislation will be welcome.

Mr. McHugh: I also welcome this legislation, as is proper for anything that deals with safety on the sea. I did not have an opportunity to speak because my colleague Senator Feighan took this Bill through the Seanad previously. As good as this legislation is from bureaucratic and administrative points of view, there is a serious problem with people who are now preparing for the summer by purchasing jet skis. These young and not-so-young people have the waterways of Rosslough, Downings and Portsalon in mind.

How far does this legislation extend to stopping these activities at their source? Perhaps there are provisions within the legislation to monitor people who sell jet skis. Will there be provisions to monitor who ends up with the jet skis and whether they are under age or over age? Where is the enforcement in this Bill? There are good and competent people jet skiing and I have no problem saying I know some who act in a responsible manner. They do not jet ski on waters where the public is swimming at the time.

I ask the Minister of State to keep in mind the fact that there are no regulations governing jet

skis and no identifiable numbers on such vehicles which indicate their ownership. There are no mandatory training courses for jet skiers to complete, yet jet skis are as dangerous as cars. Not all car drivers are irresponsible, but some are. Some car drivers decide to wake their neighbours at 3 a.m., some drivers do doughnuts and hand brake turns at Mount Errigal at 4 a.m. or 5 a.m. However, they are only a small percentage of car drivers.

Similarly, there is a small percentage of jet ski users who are irresponsible. My concern is that there are no mandatory training courses for users and no adequate regulations governing the purchase and ownership of jet skis and the same is true of power boats. It might be possible to cordon off areas off the Atlantic coast for people who wish to use jet skis in a competent and responsible manner.

There is a need for stringent legislation at the point of sale. An individual can purchase a jet ski for €8,000 without any proof that he or she is capable of piloting the vehicle or has taken part in a training course. Currently, a person can buy a jet ski, put it on the back of a tractor, take it to Downing's beach and head off into the wild open seas. There is nothing to prevent a person from doing that at present. This can cause grave problems for others in the sea, particularly swimmers. It also leads to a situation where all jet ski users are tarred with the same brush and assumed to be incompetent and inconsiderate.

The novice jet skier is naive and has no idea of waves or when the tide will turn. There should be mandatory courses and strict regulation at the point of sale. Vendors also need to take some responsibility in this area. There are responsible jet skiers and power boat owners who are crying out for stiff penalties for misuse of such vehicles. They are also calling for some regulation between the point of sale and the point of putting a jet ski into the water.

Mr. Kenneally: I thank the Minister of State for responding so well to the various points made in this House on Committee Stage. Some people might wonder how we disposed of 39 amendments so quickly but we had a comprehensive discussion on the Bill on Committee Stage and the Minister of State has responded to all of the issues raised during the debates.

The Bill in its original format was 20 pages long, following Committee Stage it was 41 pages long and the final version, containing the amendments passed today, will be approximately 45 pages in length. The subject has been given a good airing in the Seanad. This shows that the system can work very well and we now have a very good Bill.

I thank the Minister of State and his officials, particularly Mr. Tobin, for the back-up information provided to us on Committee and Report Stages of the Bill. It is wonderful to receive that type of information, which makes our job easier. I hope the Bill will pass speedily through the Dáil

so this legislation can be enacted as soon as possible.

Mr. McCarthy: I thank the Minister of State and his officials for the time and effort they put into formulating this legislation. I am aware that the vast majority of the work was done on Committee Stage. I am representing my colleague, Senator O'Meara, for the Report and Final Stages of the Bill and on her behalf, I wish to compliment all those involved.

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher): I wish to deal with the various issues raised in the course of today's debate. Senator O'Toole suggested that there may be a barrier to harbour companies appointing harbour masters as authorised officers. It is, of course, a matter for the harbour companies to appoint the authorised officers, but I would expect the first person appointed would be the harbour master. I will examine this again, as the Senator has requested, but this matter was also raised on Committee Stage and I expressed the view that harbour or port companies would almost certainly appoint the harbour master automatically.

Senator O'Toole raised several other issues during the Committee Stage debate, as did a number of other Senators. I have been in communication with the Minister for the Environment, Heritage and Local Government regarding eco-friendly detergents, refuse containers at landing sites and Met Éireann using local sea area weather forecasts. I understand a reply arrived just as I left my office. If I am unhappy with that reply, I will pursue these matters further with the Minister.

Senator McHugh referred to the fact that there is no register for jet skis and that one can go to any pier and launch a jet ski. It was the same many years ago with cars on the roads, before licensing was introduced. We must make progress on this issue.

The marine safety directorate of my Department is involved in registering boats and has issued thousands of licences for potting purposes. It is currently developing a registration system to enhance the safety of recreational craft. That system will be known as the small vessel register, SVR. The intention is to design a system for recreational craft and small commercial vessels. Owners of the latter vessels have difficulties registering under the provisions of the Mercantile Marine Act 1955, which is primarily aimed at larger commercial vessels.

I agree with the point made by Senator McHugh that while we do not want to be kill-joys, we also have a responsibility to protect the lives of those using recreational craft and those who may come into contact with them. I am anxious to progress this issue further, while taking into consideration the practical difficulties and the pressure on the officials in my Department.

It was clear during the course of the debate on Second, Committee and Report Stages that this House has had an important input into the Bill. Where appropriate, I have taken on board proposals made by Senators, which have improved the Bill. I thank all of the Senators for their contributions. I am committed to ensuring that the Bill is fully and effectively implemented and water safety will remain a priority on my agenda.

In addition to thanking the Senators and those who took a particular interest in this Bill, I thank the Parliamentary Counsel and Jack Hazlett and his colleagues in the Office of the Attorney General for all of their work in bringing the Bill to a successful conclusion in this House. I also thank the officials in my Department for their hard work and advice during the passage of the Bill through the House. We now have a Bill that should quickly yield results, such as greater safety and greater public enjoyment of the national assets we have in our rivers, lakes and around our coast. I remind those who use recreational craft of their responsibility to themselves and others. They also have a responsibility to those involved in saving lives. These people put their own lives at risk to save others. I thank the coastguard, including those who work with us in the Department and particularly those who give their time in a voluntary capacity. I hope to ensure this Bill will be enacted before the summer recess.

Question put and agreed to.

Sitting suspended at 4.40 p.m. and resumed at 5 p.m.

Immigrant Workers: Motion.

Mr. Ryan: I move:

That Seanad Éireann,

- recognising the important contribution being made by immigrants to our current prosperity but noting the alarming number of reports of exploitation and abuse of immigrant workers and the assertion by the Government that such alleged exploitation was only investigated after a complaint was made;
- condemns all such exploitation and abuse of guests in our country;
- deplores the failure of the Government to adequately provide for the needs of immigrant workers, the inordinate delay in appointing adequate numbers of industrial inspectors and the apparent absence of any proactive system to prevent abuse and exploitation;
- demands immediate action by the Government to ensure that all employers of immigrant workers operate within both the spirit and letter of Irish labour law; and

[Mr. Ryan.]

—calls for immediate legislation to ensure that all immigrant workers are aware of their rights and have access to effective remedies when those rights are threatened.

Cuirim fáilte roimh an Aire Fiontar, Trádála agus Fostaíochta. This motion was put forward due to serious public concern that toleration exists for a *de facto* underclass of people who are at work but unprotected from the worst predatory instincts of unscrupulous employers. There is almost one horror headline story each week.

I do not wish to encroach on the territory of the courts but a construction company has been accused of wrongdoing. The Minister for Enterprise, Trade and Employment, Deputy Martin, is aware of the conclusions of his own inspectors. I am aware that he is precluded from revealing much on this issue. That the court judgement ordered the document to be circulated among a number of bodies, including the DPP, suggests that the company in question did not get a clean bill of health.

A story from Donegal described people ending up penniless, living in hostels and dependent on the kindness of locals. Instances of exploitation in the agricultural sector were revealed by a local priest. The appalling treatment of domestic service workers is intermittently reported. It is an unfortunate characteristic of this country that action is taken slowly and tardily.

The work permit system was appropriate for a time when a small number of people were occasionally required by an employer to perform specific jobs. An example of this is the case of employees of ethnic restaurants. The connection between permit and employer was clear in such situations. Ethnic or family connections may also have existed. However, a system which dealt with perhaps a few hundred has been overtaken by the huge numbers of people now involved with migrant labour.

The numbers have decreased slightly since the accession of the new EU member states but not to the extent forecast by the Minister's predecessor. I remember the frequent claims by the Tánaiste and former Minister for Enterprise, Trade and Employment, Deputy Harney, that the number would drop dramatically.

The arrival here of immigrant workers from the new accession states and from outside the EU is not a negative phenomenon. Unemployment in this country hovers at 4%. Despite the immigration of 50,000 to 60,000 EU workers and around 30,000 workers from outside the EU, the labour market continues to appear capable of absorbing these numbers. At issue are not immigrant workers but the system we put in place to protect them.

The numbers are enormous, as the following figures from the Department of Enterprise, Trade and Employment's website reveal. In 1999, 6,250 work permits were issued, the number increasing to 47,000 in 2003 and decreasing to 34,000 in 2004.

During the first three months of this year, approximately 6,000 permits were issued, which suggests a yearly total of 24,000. While this represents a decrease on previous numbers, it is significantly greater than the figure for 2000.

This issue did not arise suddenly this year but has been present for a long time. As such, we have had a lot of time to deal with it. It is tragic that our response has not been generous or sensitive. The fundamental problem is that a permit linking employee to employer is close to a system of bonded labour. If the employer is not free to leave, his or her negotiating position *vis-à-vis* the employer is lost. The alternative is to return to unemployment in the employee's home country.

In a civilised society those exploited by employers may leave and be supported by a generous welfare system. This State decided not to permit anybody with fewer than three years' residence or a close Irish connection access to our welfare system. By doing so people treated badly by an employer were effectively given the options of returning home, starving or putting up with the situation. Over the last number of weeks hair raising allegations have been made about a company with which the Minister and I are familiar due to a major construction project in a constituency which he represents and I endeavoured to represent. These practices are disturbing and I repeat they should not happen.

It is important to point out that there is no perfect system. However, one does not have to be an international authority to recognise where problems will arise. They will arise when people have limited language skills or where they come from countries where there is not a strong culture of rights for workers. Courtesy of an informative website, namely, that of the Department of Enterprise, Trade and Employment, I was surprised to learn of the countries from which our non-EU workers come. In 2004, some 1,000 permits were issued to people from Bangladesh, 2,000 permits were issued to people from Romania, 2,000 were issued to people from Ukraine and nearly 900 were issued to people from Moldova. All those workers are welcome here. However, it is astonishing that there is no information leaflet available in Bengali, Romanian, Turkish, Bulgarian, Ukrainian or Moldovan. According to the website, information is available in Irish, English, Chinese, Czech, Hungarian, Latvian, Lithuanian, Polish, Portuguese and Russian. I am not sure about Moldova and the language spoken there and I do not want to make an issue about it. There are 2,000 Ukrainians here and given that the Ukrainian language dates back a thousand years, it seems astonishing that we do not have literature available for those people in their language. That would seem a simple provision.

Another simple provision would be to ensure personnel are available in sufficient numbers and with appropriate briefs to ensure these people are properly looked after. I was surprised to discover that in 1932 the Department had two senior

inspectors and ten industrial inspectors. By 1965 that number had risen to one chief inspector, four senior inspectors and 16 industrial inspectors. Today there are 21 inspectors with a promise of ten more. We need to consider the complexity of the issues involved, a major issue being the complexity of our industrial workforce. These inspectors cover not only the building and manufacturing industry, but the catering industry, the hotel industry and agriculture and fisheries. There are only 21 inspectors to monitor those industries.

I would like the Minister to explain the reason the urgent demand of the trade union movement for additional staff, articulated over a number of years, was delayed deliberately by his Department last year. Jack O'Connor, the president of SIPTU, is on record as saying that the announcement by the Minister, Deputy Martin, of 11 new staff was very belated, given that the Department of Enterprise, Trade and Employment had blocked moves to significantly increase the number of inspectors last year, last year being 2004. We knew in 2004 that problems were arising. We knew then that there were problems of abuse and misuse of workers. However, the Department's response was to say "No" to the call for additional staff. It is bad enough not to have enough inspectors but then an extraordinary phrase emanated from the Department to the effect that it can only take action when it receives a complaint. When we do not publish rudimentary literature in the languages of potential complainants, we can be sure we will not receive complaints. If we do not receive complaints, nothing happens.

The first simple measure is to make sure that if there is a significant community of immigrant workers here, they are informed of their rights by the State in the language with which they are most comfortable. There is no point in talking about countries like Bangladesh where a large number of people can speak English. Being able to do rudimentary business, such as working a cash register in a restaurant in an airport is not the same as being able to assert one's rights. I would not like to have to argue my fundamental rights in labour law as Gaeilge. I have reasonably good Irish but I would not like to be asked to do that. For people whose knowledge of English would probably be a good deal more limited than my knowledge of Irish, arguing for their rights in English is an impossible task.

Once we decided we would participate in the world market in terms of labour mobility, our first obligation was to let people know that. Our second obligation was to transform the value system of the Department from one of permitting to one of protecting. We want people to come here. We encourage and need people to work here. We could have the best part of 100,000 jobs vacant here if we did not have immigrant workers. Such vacancies would reduce our capacity to create wealth. We would not create wealth without those immigrant workers. We need these people and should provide them with literature in

their own language. We should take a proactive position which would require employers to affirm that they are in compliance with all the provisions of labour law. Such law provides for inspectors to make random checks wherever people are working. It sets out a framework whereby people can come here legitimately to work, whether they be EU citizens or from outside the EU, and have access to welfare services, if there is any evidence of a reasonable dispute between an immigrant worker and an employer where the worker is not being given his or her legal provisions. We need to meet three provisions, namely, a guarantee that immigrant workers will not be penniless; a guarantee they will have access to literature in their own language; and the proactive, vigorous enforcement of the law by industrial inspectors. These provisions would alleviate problems in this area. I hope the Government's proposal to put in place a proper immigration system based on an intelligent assessment of our needs will address other problems in this area.

The idea that a future immigration policy would be based only on accepting people with skills would be grossly unfair. It would be wrong to suggest we would maintain a two tier system where graduates and people with high skills would have the right to come here. Most of the 100,000 immigrant workers who are here are in jobs that do not require third level or even second level qualifications. They are engaged in basic services, mostly jobs that Irish people do not want to do any more. If we are going to allow those people only to come in under the old system, they will continue to be exploited. We must ensure that anybody who comes to work here has rights, has those rights vindicated, understands those rights and believes that the power of the State will ensure that once they do a decent day's work they get decent treatment from their employers.

Ms O'Meara: I second the motion.

I wish to pick up where Senator Ryan finished by reiterating that the new situation we face of the rapid growth in the number of foreign workers here, which is very much to be welcomed, requires a new set of responses and it is a matter of urgency that those responses are put in place. The situation faced by the Gama workers and other instances we could cite of the exploitation of foreign workers have shocked people to their core. It is not that long ago since many thousands of Irish people travelled abroad as migrant workers. It was interesting to note that a delegation from the Fine Gael Party left for the US recently.

Ms O'Rourke: We do not hear its members arguing for the rights of the immigrants who are here.

Mr. Ryan: The Senator hears us argue for them.

Mr. Coghlan: And us.

Ms O'Rourke: I am not talking about Senator Ryan's party.

Mr. Coghlan: I spoke about that matter here and I will do so again.

An Leas-Chathaoirleach: Allow Senator O'Meara to continue without interruption.

Ms O'Meara: The visit of that delegation brought home to me the fact that it is not that long since many thousands of our people had to travel abroad to be migrant workers because of high unemployment here, limited career prospects and effective underemployment. With our recent personal experience, one would imagine we would be cognisant of the situation faced by a migrant worker in a foreign country, which is exacerbated when the language spoken that country is different from one's own language.

The new situation presents a major challenge, which is urgent and must be responded to. As Senator Ryan said, it requires a proactive approach by the Government to create a culture of protecting workers rather than permitting workers. A substantial number of migrant workers work in the services sector and in some cases are low paid. Some of these people would be very skilled in their own country. I recently met an experienced hotel manager who was working as a waitress. She did not mind that. However, she would have liked to be able to move up the career ladder but her work permit did not allow her to do so.

We need to be cognisant of the fact that a number of migrant workers are working in the low paid sector. The term "non-national worker" is a very broad one because it covers a number of nationalities. For instance, it covers many people from the new EU member states. It covers people from non-EU states in eastern Europe and the western side of Russia. It includes workers from India, the Philippines, Bulgaria, Romania and a number from Africa who possess a whole range of skills and experiences. It creates a whole new challenge for us to respond to this phenomenon. Our response as a nation and as a Legislature will determine how this whole phenomenon will pan out, particularly as a social phenomenon in the future.

I was interested in *The Sunday Tribune* poll last weekend which contained a number of confusing statistics. The fact that all non-nationals were heaped together probably created some distortion. For instance, some people would have quite a reaction to asylum seekers but they would have a very different reaction to migrant workers. We need to separate the two issues. The motion deals with migrant workers, therefore, I do not want to stray into the area of asylum seekers. From the point of view of testing public opinion, it would be more useful to be more specific in asking the question. We must accept that the phenomenon of an increasing number of foreign workers is here to stay, which is welcome. I gather from

reading *The Sunday Tribune* poll that most people welcome it. We are now a multicultural society, which presents many challenges to our education system and our community and to which we must respond.

We need to address a number of issues, one of which I recently encountered in my clinic. The wife and children of a doctor from Pakistan, who has lived in this country for a number of years and made a significant contribution to the Irish health system and a local hospital, recently came to this country. When they applied for children's allowance, they were told that the habitual residence rule went against them. This was resolved, but if we had not made the intervention, the doctor in question would have accepted the fact that his wife was initially refused children's allowance. The case was won on appeal. There is another more recent example. A Sri Lankan man, who is working in the restaurant sector, plans to marry in August. He comes from an area which was badly affected by the tsunami, so clearly his work in Ireland is very important to his family. He is going back to Sri Lanka in August to get married, but he is concerned that his wife may not be able to come to Ireland legally because he is here on a work permit.

When we welcome workers to contribute to our economic success, we must remember that they have families. As this has been an issue for Irish people in America, why is it different for a Sri Lankan worker in Ireland? Our demands for our workers in America should also apply to migrant workers in Ireland. If we begin from that point, we will move forward in a useful and constructive fashion. We are now in a very different position from what was the case in the past. We have a lot of coping to do and investment to make to ensure our migrant workers are made welcome, not just by words but by our actions.

The motion indicates that the Government is not providing adequately for immigrant workers. It refers specifically to the numbers of industrial inspectors. We appeal to the Minister to adopt a protective system, which protects all workers and, in particular, recognises that migrant workers have particular issues and problems that must be met as soon as possible after they arrive in this country.

Mr. Leyden: I move amendment No. 1:

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

- acknowledges and recognises the important contribution which migrant workers make to our shared economic and social goals;
- condemns exploitation of all workers in Ireland;
- notes the expansion of the labour inspectorate which will allow for a particular emphasis on the sectors where migrant workers are employed;

- supports the Government in its preparation of an employment permits Bill which will provide additional protections for migrant workers and put in place a statutory framework for economic migration policy; and
- commends the Government for the range of initiatives being undertaken to improve the operation of the employment rights bodies, the labour inspectorate and the joint labour committees.”

I will speak later in the debate.

Mr. Hanafin: Given that it is 4 May and St. Joseph’s Day, I welcome the opportunity to speak about migrant workers. I have difficulty with the apparent absence in the motion of any proactive system to prevent abuse and exploitation of migrant workers. There are a number of aspects to migrant workers. There is one aspect which is only in the remit of the courts and should be left there. If there was any wrongdoing, it was not in the Government’s name. There is legislation in place to ensure this type of thing does not occur.

I could easily say we did not have the problems of migrant workers when the Labour Party was last in Government. The amendment to the motion brings us back to the question of *post-ante* and *ex-ante*, because the reality is that the Opposition is telling us after the event what we should have done but where was it before the event? We never heard what we should be doing because we all learned at the same time the difficulties that were arising.

Arising from paragraph 12.4 of the mid-term review of Sustaining Progress, and to assist in the preparation of proposals for consideration by Government, the Labour Inspectorate prepared a discussion document on its mandate and resourcing. This comprehensive document was circulated to the social partners in January this year so that their views could be obtained. We were all working together on this. As time passed, we all learned of the difficulties that were arising.

Immigration is and will continue to be essential to how we as a society develops and prospers. There is no doubt that at every level of income and skill migrant workers are assisting this country to become wealthy, for which we owe them a debt of gratitude.

Mr. Ryan: Hear, hear.

Mr. Hanafin: In the early 1980s, the Irish were not that welcome in certain countries because of the situation in the North. Given the treatment of workers who emigrated to the UK in the 1960s and took part in the development of that country’s infrastructure, we should take a particular interest in the welfare of migrant workers. In no way should any wrongdoing be attributed to migrant workers. We should have no hand in it, nor should we condone any activity that does not welcome workers to this country with a “céad

míle fáilte”. People who come to Ireland seeking employment are welcome. It is a shared expectation on the part of Ireland’s people and the new arrivals that the experience will be beneficial to all. Ireland has skills shortages which we need to overcome if we are to deliver the essential services and infrastructure we demand and expect and contribute to the benefit of all. People who deliberately mistreat migrant workers are preying on the inexperienced and vulnerable. Such people are despicable and have no place in our business community or Irish society.

The experience of the vast majority of migrant workers in Ireland is positive and consistent with migrant workers’ experiences abroad. Our policy on migrant workers is based on economic needs and seeks to address identified labour and skills shortages. Obviously, our policy must respond to a constantly changing environment. Our labour market needs are continually changing as our economic performance changes.

For many centuries Ireland was a country of net emigration, with large numbers of young people emigrating to find employment overseas. However, this all changed in the 1990s. From 1997 to 2000, in particular, Ireland experienced an exceptional level of growth. This good economic growth has led to enormous growth in employment. Since 1997, the numbers in employment have grown by nearly 450,000. At the same time, the number unemployed has fallen by almost 80,000, from 10.4% to 4.7%, which is about half the EU average. The number of long-term unemployed people has dropped by nearly 60,000, from 5.5% to 1.4%. This is about one third of the EU average.

As a consequence of Ireland’s economic, labour and skills shortages have become apparent. This has necessitated the recruitment of large numbers of overseas workers, principally from the European Union but also from a wide geographical spread of destinations. The scale of this is evident in the numbers of work permits issued to nationals from outside the European Economic Area in recent years. The EEA consists of the 25 EU member states, Iceland, Liechtenstein, Norway and, for this purpose, Switzerland. In 1999, 6,000 work permits were issued. By 2003, this figure increased to 48,000. In all, a total of 110,000 non-EEA nationals entered employment in the State in the past five years.

Thanks to the positive nature of the Government’s policies, our future economic outlook is good. The Irish economy is forecast to grow by 4.7% in GNP terms in 2005, twice the rate of the EU average. This positive fact has been recognised by the European Commission which, in its commentary on Ireland’s Stability and Growth Pact for 2005 to 2007, notes our strong growth and sound public finances. The good economic outlook means that considerable future expansion of employment and demand for labour are also expected. This will mean increasing the numbers in our labour force.

[Mr. Hanafin.]

Given the falling numbers of young people coming into the labour market, there will be a need to mobilise labour supply from other sources, including from other countries. Not only must we acquire the number of workers we need, but we must also ensure that we supply the types of skills our labour market will need. The enterprise action plan, published in March, included the development of a skills-based immigration policy as a key task. This will support enterprise development as part of the strategy to move the economy to one which is both knowledge-based and innovation-driven.

Forfás and the expert group for future skills needs are currently engaged in research and consultations on the detailed issues entailed in the implementation of this policy, including the types of skills for which permits should be granted. This work will form the basis of a policy paper to be published by the Government later this year.

The Government is also in the final stages of preparing a new employment permits Bill, which will govern the issue of all employment permits for nationals from outside the EEA. The Bill will put the existing employment permit administrative arrangements on a legislative footing and thereby provide greater accountability and transparency. The Bill will allow for a more managed economic migration policy and enable the introduction of a green card-type system for highly-skilled migrant workers. I welcome this in particular.

The Bill will also enshrine in law a number of protections for migrant workers. Employers will be prohibited from deducting from the remuneration of migrant workers any costs associated with their recruitment. The Bill will also prohibit the retention by employers of personal documents belonging to migrant workers.

Our economic migration policy must change as Europe changes. In advance of the recent enlargement of the European Union, the Government, in an expression of solidarity with the new member states, decided to allow full freedom of movement to citizens of those states from the date of their accession to the Union on 1 May 2004. The anniversary of the accession was on 1 May 2005. In this context, the Government decided that any future labour shortages should in the first instance be met from within the EEA, particularly because there are approximately 19 million people unemployed at present in the EU.

A significant proportion of work permits over recent years has been granted to citizens of the new member states who now no longer require them. This has resulted in a significant reduction in the number of work permits issued since 1 May 2004. The number of new work permits issued in 2003 was 22,000 while the corresponding figure for 2004 was 10,000.

I commend the Government's policy and commend its amendment to the House. This is the first sitting since 1 May.

Mr. Coghlan: I thank my Labour Party colleagues for tabling this motion. It is proper that Seánad Éireann discusses this vital matter and the social and economic ramifications of recent revelations. I welcome the Minister and look forward to his views on the motion and his response to questions posed during the course of this debate.

The shabby treatment of migrant workers in this country, as revealed recently, brings disgrace on us all. Everyone involved in it should be ashamed. As I said in this House on 13 April, the fact that any sort of exploitation, based simply on nationality, or even the colour of one's skin, could thrive in 2005 is a sad indictment of where we find ourselves. Recent revelations regarding foreign workers in Gama Construction and other documented cases of exploitation are shameful. I sincerely hope the labour inspectorate of the Department of Enterprise, Trade and Employment investigates, prosecutes and punishes those responsible for any impropriety, exploitation and fraud that has taken place. In this regard, certain matters are before the courts. Will the Minister state whether it will be possible for the inspectorate, accountants or officials in the Department—

An Cathaoirleach: It is not in order to ask the Minister questions while making a contribution. The Senator can make a statement but cannot ask a question, although the Minister might be inclined to answer it.

Mr. Coghlan: As ever, I am in the Cathaoirleach's capable hands. It is important to ascertain what is outstanding regarding the people in question.

In response to a parliamentary question by my colleague, Deputy Pat Breen, the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Killeen, informed us that there are 17.5 labour inspectors in the inspectorate. He stated one was on long-term sick leave and that a job-sharing inspector is on extended unpaid leave. Two inspectors are currently engaged in assisting the Employment Appeals Tribunal. The Minister of State also said there are currently 600 cases under investigation. That is a disgrace. It is yet another example of the sheer inability of the Department and Government to plan ahead.

Over the past ten years, there has been an explosion in the numbers at work and an explosion in the numbers coming to Ireland to work. What does it take for action before a problem arises? Is it the job of Government to put out fires as they spread or is it to stop them happening in the first place? Good, proper industrial relations are vital to our economic future and if Ireland gets a reputation for shabby treatment of its migrant workers, we can kiss that future goodbye.

The country should be up-front and honest about the need for immigration, the benefits it can bring and the repercussions of not welcoming

it. It is a simple fact that Ireland will need to import the skills needed to ensure that it remains a world-class player. Goodbody stockbrokers recently said the economy has the potential to post cumulative growth of 45% between now and 2016, with the performance to be fuelled by immigration. Growth of this magnitude would see Ireland expanding at more than twice the rate of the average euro zone economy over the next decade. Against that background, we have the absurd farce of the Minister for Justice, Equality and Law Reform deporting and then bringing back leaving certificate students and of construction companies paying migrant workers a euro an hour to build this country.

It may be politically astute to give the nod to the more base instincts of some members of the electorate, but it is foolish to believe the economy can survive without a flow of migrant labour to staff the service and construction industries.

In order to attract migrant workers and keep them here we need to ensure their welfare is protected. Provision of information in the languages of those who work for us is a basic requirement. The website of the Department of Enterprise, Trade and Employment provides information booklets on workers' rights in Chinese, Czech, English, Hungarian, Irish, Latvian, Lithuanian, Polish, Portuguese, Romanian and Russian. While this is a welcome development there may not be staff available to speak to people in these languages. I do not propose that a fleet of linguistic professionals sit in offices all day awaiting phone calls from disgruntled builders but it might be worth ensuring a reasonable level of service in these languages is available in the Department.

This debate is framed by the lack of any Government policy on immigration. We should establish the economic case for immigration, set a level and establish and enforce a sensible, compassionate immigration policy that will continue to drive the engine of the economy.

It is essential to reduce waiting times for the assessment of applications to allow people work and contribute to their new society, thereby avoid consigning them to the human scrap heap until some official finds time to process their applications.

In its latest quarterly report, the Economic and Social Research Institute predicted a growth in the economy of 5.7% this year and a similar figure next year, and argued that immigrants should be given the fullest opportunity to contribute to the economy. Research showed that immigrants in Ireland do not use their educational and other qualifications to their full potential, with many holding jobs for which they are overqualified.

It is time to acknowledge the economic imperative and moral duty for us to accept immigrants. The ESRI paints a picture of teachers, doctors and lawyers who arrive here hoping to improve their lot but whose expertise is not recognised and valued. This is both wrong and wasteful.

I implore the Government to establish a proper immigration system that takes into account skills

shortages and the net benefit of inward migration, and upholds our commitments as a wealthy, economically-advanced nation. This is one of the most pressing social and economic problems we face.

Some nasty people have nasty opinions about the merit of foreign workers in Ireland.

Ms O'Rourke: There are plenty of them.

Mr. Coghlan: Yes, we must acknowledge that fact. We should not heed them. We should pay and protect those who come here and help to build our nation. We and they should accept no less.

Mr. Minihan: I welcome the Minister to the House. I am pleased to contribute to the debate this evening because it is imperative that we have a balanced and accurate discussion on the rights of migrant workers.

We must recognise the significant contribution made by migrant workers and deplore any exploitative or unfair practices. We must also recognise and commend actions taken by the Government and agencies to address problems arising from the recent and rapid phenomenon of large-scale immigration.

Between 1997 and 2000 especially, we experienced exceptional levels of growth in jobs and employment. The number of those in employment has grown by almost 450,000 in the past eight years. Simultaneously, the number of unemployed persons fell by about 80,000. The unemployment rate is half the average in the European Union, having dropped from 10.4% to 4.7% in recent years.

The result is a new phenomenon, namely, labour and skills shortages requiring us to recruit many overseas workers, principally from the European Union, but also from countries across the globe.

All immigrants contribute to our society and not just those workers who improve our prosperity, as identified in the Labour Party motion. Addressing this topic here on 13 April, the Minister for Enterprise, Trade and Employment, Deputy Martin, said, "Immigration is and, will continue to be, essential to the development and prosperity of Irish society." This is a relatively new phenomenon in this country but generations of Irish people have known the other side of the coin. We must send a clear message that people who come to Ireland seeking employment are welcome and we must treat them in a just manner.

It would be a shame to focus exclusively on the contribution made by migrant workers to our economy. As a recent article pointed out, we tend to categorise immigrants as non-nationals but they come from a variety of backgrounds and countries.

According to the 2002 census, 6% of the population living in Ireland are non-citizens, while the non-EU population makes up an average 2.3% of the overall labour force. Asylum seekers are the

[Mr. Minihan.]

most prominent and talked-about immigrants of recent years, yet they constitute only 10% of those who have arrived in Ireland.

I am particularly concerned about the 100 or so unaccompanied minor asylum seekers who have come here from Nigeria in the past two years. We owe a special duty to protect children who come here alone.

In many sectors, especially services, agriculture and health, migrant workers make an indispensable contribution to our society. It is ironic and sad that some unenlightened souls speak of migrants as being a drain on our society or economy because we need them. The ESRI states the demand for workers must be met by immigration. We need migrants to keep us in the prosperity to which we are becoming accustomed. We must treat them fairly and with dignity.

This is not limited to providing money, allowances, accommodation or permits, or whatever. It is a complex and nuanced policy area. For example, last month my colleague, Senator Morrissey, called for our economy to make better use of migrant workers' skills, a call I echo. The ESRI stated that if more migrants worked in occupations that utilised their educational abilities, it would increase real gross national disposable income by 1% rather than the 0.4% attributed to them. This is not simply a matter of economic success or maximising what Ireland can gain from migrant workers; it concerns the well-being of people coming into the country.

All employees in Ireland are covered by Irish employment rights legislation, specifically section 20 of the Protection of Employees (Part-Time Work) Act 2001 which extends that coverage to workers posted to Ireland, irrespective of nationality or place of residence. A cursory glance at the media, or the entrance to the Four Courts, or even the gates of Leinster House on some occasions shows that problems exist. Without detailing the specifics of any particular case — this issue has been well aired in this House — I welcome the talks between the Labour Relations Commission and the management of Gama Construction Limited.

I share the view that the Irish experience of most migrant workers is positive. We must be conscious of any claims of abuse or exploitation of workers. I echo the concerns raised that there are only 20 labour standards inspectors nationwide. Recent reports suggest that rogue employers will continue to get away with exploitation and worse as long as there are so few inspectors. This issue must be addressed promptly.

I hope I have provided some balance to this evening's discussion. People from other nations have contributed to the richness of Irish society and will continue to do so. The simplistic categorisation of all migrants is regrettable. The ignorant view that all migrants are here to get something for nothing is sad and must be challenged wherever it is uttered.

As I have said, immigration has been a recent trend in Ireland and it has been difficult to respond to it. However, we are doing a lot of good work, as I can see from the employment rights information booklets published in various languages on the Department of Enterprise, Trade and Employment's website. I know there are real issues facing migrant workers, and I hope some of the points I have raised this evening will help bring about further discussion.

I will finish by recounting the words attributed to the former Secretary General of the United Nations, Boutros Boutros-Ghali who said "Good news is no news." There is some marvellous work being done, which demonstrates how indigenous and foreign workers are integrating with great success. May that continue. We must highlight exploitation at every turn and take every possible step to stamp it out.

Mr. Quinn: I welcome the opportunity to debate this subject. I have some difficulty supporting the Government's amendment, particularly its second bullet point, which says "condemns exploitation of all workers in Ireland". I do not believe that all workers in Ireland are exploited. I am sure that is not the meaning the Minister intends.

Ms O'Rourke: It means where that is the case.

Minister for Enterprise, Trade and Employment (Mr. Martin): It aims to avoid making a distinction.

Mr. Quinn: It does avoid making one, but to—

Mr. Martin: The same labour law applies to everybody.

Mr. Quinn: That is indeed the point. I suggest that the wording in the amendment is not correct.

Mr. Ryan: It looks like Deputy Joe Higgins wrote it.

Mr. Quinn: The wording could be taken to mean that all workers in Ireland are exploited. As an employer, I have some difficulty with that. I am sure that is not the meaning the Minister intends.

I have mentioned just now that I am an employer. As a class, we are the villains of this piece. I cannot, and will not, take the part of those employers who have been letting the side down by abusing the rights of immigrant workers. We have already heard much about that this evening. My attitude to immigrants is quite simple, and it should be well known in this House, as I have often stated it. I believe that, as a nation, we should welcome newcomers to our society. We ourselves have been welcomed in many countries around the world over the centuries. We have heard that stated again tonight.

Immigrants have much to offer our economy and our society.

I am sure the Minister is prepared to change the wording of the Government amendment.

Mr. Martin: We could add “wherever it occurs”.

Mr. Quinn: One reason countries welcome immigrants is that, to get on in their new home, they are prepared to do work that is no longer attractive to people already living here and to work for rates of pay that people already living here do not find attractive enough. I recently spoke to somebody working for my company. She is a floor cleaner from the Ukraine, and is happy working in this country, but she is a qualified psychologist. She told me that her son, a qualified scientist, is working in Dublin, also as a cleaner.

Ms O'Rourke: I think that is terrible.

Mr. Quinn: That is a reminder that people will undertake work far beneath their capability. One of our tasks is somehow to find a way to change that situation. I know the Minister's heart is in the right place, but I am not sure how we achieve that aim. We have seen people's ability to lift themselves up from where they were before within a short period. On a recent visit to America, I met a man born in 1936, I think he said. He described the experience of arriving there from Germany with his family in 1949, when he was aged 13. There were three or four in his family. Within four weeks, that family had bought a home, and within six weeks they had a car. He told me that was so far removed from the way of life he could have expected back in post-war Germany. When people come to our society and achieve something similar, it is a joy to see, and we need to encourage that.

As I was saying, immigrants can often be ready to start at the bottom and work their way up. Within limits, that is perfectly acceptable. Those limits are the nub of the problem. Our law rightly imposes on employers very strict constraints on the terms by which they may employ people. For instance, the law lays down that they must pay at least the minimum wage. No individual employer and no individual employee has the right to enter into any contract that nullifies that agreement. A raft of conditions apply to working conditions and health and safety matters. Some people will argue that we have too much regulation in that regard, but that is not a point for this debate.

The point is that the law is the law. No one has the right to consider himself or herself outside or above and beyond the law. As we recently discovered with the issue of taking money from the residents of nursing homes, not even the Government — the State itself — has the right to break the law. I believe immigrants are entitled to be treated exactly the same as everybody else. Part of the difficulty in making that a reality arises from the circumstances in which immigrants often

find themselves. If they are illegal immigrants, they are immediately open to becoming the prey of unscrupulous people. Even immigrants who are here perfectly legally often find themselves at a disadvantage.

One difficulty that has been much encountered recently is caused by the fact that people do not necessarily speak our language or the English language. That cuts them off from many of the safety nets that would normally come into play. I know the Government and unions have taken some steps in that regards. In one of our supermarket outlets, we now do our training in three different languages. We need to do that to train people and have them understand what is required.

Ms O'Rourke: What three languages?

Mr. Quinn: We need to recognise that need as a nation.

Ms O'Rourke: What three languages?

Mr. Quinn: In that particular store, they are all European. They are Spanish, French and Italian.

Ms O'Rourke: Did Senator Quinn say Italian?

An Cathaoirleach: Senator Quinn, without interruption. I ask Senators to allow him his eight minutes.

Mr. Quinn: Another difficulty arises from the fact that the immigrants do not know what their rights are. Sometimes, trade unions can be to blame for that. There is an onus on us all, including trade unions, to draw the attention of those who do not know their rights to what their rights are. Many of the workers come from a totally different situation in their home countries. They might be more used to tough employers who can do whatever they like without any interference from the state or trade unions. Some come from places where a wage far below our legal minimum wage is considered quite generous. Now, we have the highest minimum wage in Europe, or if we do not, then we are very close to it. We can be proud of that fact. On occasions, however, I question the wisdom of that, as it eliminates jobs that would otherwise exist but do not exist because of the minimum wage being at a certain level. We can discuss that subject on some other occasion. That all adds up to a situation where we cannot reasonably expect our new immigrants to stand up for their own rights. In that sense, we must treat them differently and they need more protection than the average Irish worker. Unlike the average Irish worker, the immigrant probably knows very little about his or her rights and entitlements, and still less about how to go about dealing with the problems that they come up against.

The recent controversies revealed the total inadequacy of the labour inspectorate. I do not of course mean that the inspectors themselves are inadequate, but it is obvious that there are not

[Mr. Quinn.]

enough of them and that the inspectorate is woefully under-resourced. We cannot afford to let that state of affairs continue.

It is with a heavy heart that I say recent events have shown that there are too many employers in this country who will exploit the people who work for them if they get the chance to do so. I would like to think such people are few and far between, but we can no longer be as sure about that as we used to be. In recent months, problems have arisen with individual farmers using immigrant labour. Problems have arisen among giant multinationals, which we brought here to help build our infrastructure. We have also heard about problems arising among respected private sector companies that have contracted out jobs under doubtful circumstances to third-party firms supplying cheap foreign labour.

I join those urging the Government to take the problem seriously and to take effective action to deal with it as a matter of urgency. I know that the Minister's heart is in the right place and that the intention of the motion is correct. To an extent, I always hope that such motions debated on a Wednesday evening will not have an amendment condemning them. I believe it is possible to have the best of both worlds.

Ms O'Rourke: I move amendment No. 1 to amendment No. 1:

In line 4, after "Ireland" to insert " , wherever it occurs".

It should have been Senator Leyden speaking at this point, but he has disappeared. I am glad to contribute to this evening's debate, as I did on a previous occasion.

We had a general debate during our first week back after Easter, as requested. I take Senator Quinn's point. Even though the amendment is in my name, as a red-clawed socialist I would not leave the amendment as it was. We condemn the exploitation of all workers in Ireland wherever it occurs. The former wording was quite ribald.

Mr. Quinn: Senator Ryan drew my attention to the wording.

Mr. Ryan: The punchline was taken from me.

Mr. Martin: I was worried about Deputy Joe Higgins.

Ms O'Rourke: Nobody has said well done to Deputy Joe Higgins, but I do. He took on the issue, carved it out and persisted. Whether or not we are grumpy about it, we should say well done to him.

Mr. Coghlan: We said so on 13 April.

Ms O'Rourke: Nobody else had the energy or commitment to address the issue as he has done. He was in Dunnes Stores in Athlone handing out his recruitment leaflets and newspaper. He got up

on the platform and delivered a fine rabble-rousing speech and then departed. He travels far and wide in pursuit of disadvantage.

The motion and amendment are well couched, apart from the omission. I am glad to note the labour inspectorate will be expanded. Can the Minister tell us whether this has happened or when it might happen? I could not believe the suggestions was refused by the Department the year before when an offer of extra inspectors was made. If one spends one's life beseeching for measures it is odd to refuse them when they are offered. We read of this in the newspapers, although they do not always print the truth.

The Minister will hopefully bring the employment permits Bill before the Seanad and this would be very useful. We need immigrant workers and their skills, whether in growing mushrooms or cleaning floors. However, we are not using them according to their proper qualifications. Senator Quinn made this point, and I have seen many instances of people unable to use their mechanical engineering degrees or formal accountancy qualifications. They perform more lowly and menial tasks for which they are very glad to receive a wage. The economy could not operate as it does without this significant amount of labour doing the jobs for which it is difficult to get Irish people. However, the patronising aspect grates with me.

The situation with regard to Gama Construction is a shame. We had achieved a good competitive regime, whereby the NRA went way above its roads budget every year. However, we then got into a discriminatory situation whereby Gama Construction put forward tenders and clearly underbid far more experienced people who paid their workers the going rate and proper entitlements. Gama did not do likewise and got away with it. In future, if Polish firms give a good quote everybody will be tainted by the Gama situation. Every building contractor will have that issue hung around his or her head. We had a competitive regime with regard to tenders and I regret what happened and the way in which people were treated.

The last time the Minister of State, Deputy Michael Ahern, was before this House, I said that the Department was too passive when dealing with the issue of migrant workers. The Department stated that it had heard no complaints from workers. It was a case of chasing the person to blame. How could there be a complaint from migrant workers? How would they find Kildare Street and the labour inspectorate? How would they speak the language and fill out the forms? They could not possibly do so, yet that was expected of them.

How could there be a formal complaint from people who speak Turkish and have never been in Kildare Street? This has changed since Deputy Joe Higgins took up their cause. A vastly more proactive stance is required from the Department, which is why I welcome developments with regard to the labour inspectorate and the joint

labour committees. They should go out and seek discrimination rather than waiting for it to come to them. That will not happen.

I commend the Minister with regard to getting the report printed and into the hands of ordinary people. He is allowed by order of the courts to give the report to the Revenue Commissioners and the Garda Síochána, but we would like to see it made public. It must contain something extremely nefarious since Gama is making such efforts to ensure its findings are not implemented.

We keep talking about our history, but immigration difficulties and policy are a new phenomena in Ireland. We have never been in this situation before. There has been much emigration from this land and we would have wished that all of our emigrants were properly treated. However, they were not. We are now in modern times and have modern technology and ways of doing things. The national development plan will never be achieved without foreign workers who receive their proper stipend and full terms. We should not think of ourselves as great because of what we are doing. These people have skills and we need them. It is an open market and we need them more than they need us. They have every right to be treated properly and decently with civility and courtesy. Above all, in an interventionist sense, the Department should seize the high ground and go after these people to discover what their complaints are rather than sit back and wait for them to come to it. I am not referring to the Minister in particular. The Department should be much more proactive.

I wish the employment permits Bill was before the House and we should debate the issue of asylum seekers. The greatest scandal is that they cannot work. There are 400 families in 400 mobile homes in a field in Athlone looking out the window all day long. These are grown adults who are told they have no right to work. Some of them have been here four or five years and have children who are sitting examinations.

Mr. Bannon: The Government has been in power for more than seven years and done nothing about it.

Ms O'Rourke: I am worn out writing letters and beseeching the Minister.

An Cathaoirleach: The Senator's time is up.

Ms O'Rourke: What a pity. As I said earlier, my amendment to the amendment refers to the second point which condemns exploitation of all workers in Ireland. If we passed the amendment as worded, May Day would go to our heads. I am amending it to refer to exploitation wherever it occurs. This is due to the advice of our learned friend, Senator Quinn.

Ms Tuffy: I thank the Cathaoirleach and the Minister. Senator O'Rourke referred to Ireland as having an immigration policy. As I have said a

number of times in this House, we do not have a coherent policy. It is very much a case of crisis management in that something happens and the Government usually responds in a negative manner which has led to legislation regarding carriers' liability and such like.

The discussion paper from the Minister for Justice, Equality and Law Reform indicates there will be new legislation with regard to work permits. Legislation is put in place on an *ad hoc* basis, usually as a reaction to something that has happened or come to light. Similarly, last year's referendum was a negative response to our new situation in respect of people coming to Ireland, making a life here and having children.

The Labour Party is in favour of having an immigration policy. When a good policy is in place, it should be enforced. It should be an immigration policy based on a positive premise, that is comprehensively structured and well thought through. A green card system similar to that which obtains in the United States should not only be considered but should be adopted. In the United States, the authorities allow people who were not born there to achieve citizenship. However, nobody could argue that the US does not have a strict immigration system. This is the kind of system we should be examining.

Apart from the situation regarding the Gama workers, we have also encountered problems with other people on work permits who have been exploited over the years. That represents one side of the coin of our immigration policy. The other side of the coin concerns the unjust deportation of people such as the recent case of the student in Palmerstown. It has much to do with a negatively-pitched immigration policy. I welcome the fact that the Minister has introduced a discussion paper and some of the proposals mentioned in it. However, if one follows the discussion paper's logic, he may still be inclined to introduce something that is a hotchpotch of different systems. This is not what is wanted. A comprehensive system is needed that gives greater priority to the people affected by immigration policy than to the economy. We expect no less for Irish people who travel abroad and we should treat people in a similar manner when they come here. When this policy is in place, everyone will know where he or she stands. One can enforce the policy and restrict entry to the country, but people who come here will be treated properly and will have rights.

The Minister is aware of the Labour Party proposals which we introduced many years ago. They were welcomed by different groups such as the Irish Refugee Council. The Government has been in office for eight years and it is time that it got its act together on this issue. The exploitation of people on work permits is nothing new. A couple of years ago, there was a case involving some Brazilian workers who were very badly treated and had not been paid for months. Some of them were obliged to return to Brazil without being able to find other work. We know the story about

[Ms Tuffy.]

the other side of immigration policy. For example, I have dealt with people who find it impossible to get visas for their relatives to come here. For example, Irish citizens living here can find it impossible to bring an elderly parent to Ireland on a visa whereas it seems that work permits are handed out very easily. This again demonstrates that when the Government examines work permits and immigration policy, it prioritises the economy when it should be examining workers' rights.

The system is really shown up by the following example. One of my constituents managed to get a work permit for someone to come here and do a certain type of work, but could not get that person a visitor's visa or an entry visa. The work permit then expired, by which stage that type of permit was no longer permissible. If something like that could happen, there is clearly not a joined-up policy in place regarding work permits and our immigration policy. I went to considerable effort to resolve the problem for the people concerned and got nowhere. Eventually, they gave up.

I am glad that the Government amendment has been amended by Senator O'Rourke. It had implied that all our workers are exploited. One reason it is so important to ensure that people who come here and work on work permits or otherwise are not exploited is to ensure that our own indigenous workforce is not exploited either. For example, companies may compete with other companies that exploit workers in the manner that might have been the case with Gama. What should they do? Should they cut costs and corners and pay lower wages to their staff so that they can compete in, for example, the tenders market? It is important that the Gama workers' situation is resolved, their rights are enforced by the Government and we never allow this type of situation to recur. The fact that struck and upset me most about the whole affair is that Gama was employed on contract to carry out work in my local authority area. Over the years, local authority managers and workers and managers have fought for their own rights. One would expect public sector workers, of all people, to ensure that workers' rights would be enforced. I do not make any allegations about the local authority's intentions when giving Gama the contract. However, it should ensure, as should the State, that when a contract is awarded to a company, that the workers' rights are implemented with respect to the contract and the company involved.

Ms White: I welcome the Minister to the House and welcome the opportunity to speak on this topical and important issue. We all appreciate that unfortunately, the issue is topical due to the recent alleged cases of employee rights abuse. I find it unsettling that foreign workers might be exploited and taken advantage of and I condemn all such exploitation and abuse of guests in our country. We should be shouting from the rooftops that our economy would have collapsed and

our growth rate would not have been sustained were it not for our economic immigrants. On a positive note, Senator Quinn commented about people emigrating to America. In comparison, from my day to day experience in the business community, I know of immigrants from Lithuania who earn more in a month in Ireland than they would in a year at home. Our economy would collapse without our immigrant workers while we provide an opportunity for people to make money, attain a certain quality of life and send money back to their own countries. Immigrants' remittances are going back to other countries in the same way we had emigrants' remittances from abroad in the 1950s, when many people emigrated. Immigrants come here and get money. They love it here for different reasons. Last week I met a Chinese beautician in Arnott's. I asked her why she liked it in Ireland and she replied she loved the weather. This is fantastic. She loved the weather because in China, she experienced extremes of cold and heat and she now intends to live here. I do not think the penny has yet dropped with the public that our economy would have collapsed without the immigrants who came to Ireland.

It is inevitable that we will also have intermarriage as well. I look forward to it and it is inevitable. The Irish who went to the United States married Germans and Italians and people coming here will intermarry. This will be very good for us and will make us even more exotic than we are now. There is no point in my repeating the events relating to Gama as it has already been restated too many times. However, the Minister should know that my attention has been drawn to an area that would be well worth examining—

An Cathaoirleach: The Senator should address the Chair.

Ms White: I apologise. The Irish Congress of Trade Unions has drawn to my attention to the rights of immigrant workers in private homes.

Mr. Ryan: Hear, hear.

Ms White: Abuses such as unreasonable duties, excessive working hours, no time off, no annual leave and low pay have been alleged. As Senator O'Rourke stated, there must be proactive investigation of these alleged abuses. It is bad enough that such abuses occur in businesses like Gama but they also occur in private residences.

People, including Senator Tuffy, who spoke so well on the topic, have talked about the need for an immigration policy and there is no doubt that one is necessary. We need a skills-based immigration policy that admits people on the basis of skill gaps in the market. We cannot have an open door immigration policy that admits people who might not be able to use the training received in their mother countries. A woman from Mongolia who works on my floor in the mornings is trained as a radiographer technician but cannot find such

work here. We need to find some way whereby people who come to Ireland and have a good command of English can use their skills and training. The woman's husband was a policeman in Mongolia but now works as a kitchen aid here. Neither of them is using their potential but they love Ireland and the interaction with Irish people who see their potential. We need a skills-based immigration policy but we should also support people who come here looking for work. All of us in Leinster House can see the contribution of foreigners who work herein.

I commend the Minister for Enterprise, Trade and Employment on his handling of the Gama affair. I know he is in command of the situation and that once the affair came to his attention, he stuck with it. I would like to tell Senator Terry that it was not possible to have an immigration policy when so many Irish people were emigrating.

An Cathaoirleach: Senator White is not allowed to address other Senators directly.

Ms White: It is very important for our image abroad that we do not gain a reputation for exploiting foreign workers because it is impossible to change such a reputation. I join with the Leader in asking the Minister and his Department to be proactive in investigating abuses. I would like to draw the Minister's attention to ICTU's investigation into the alleged abuse of foreign domestic staff.

Mr. Bannon: I welcome the Minister to the House to debate this important issue. From being a relatively poor country dragged into prosperity on the back of the EU, Ireland now has the second highest minimum wage in the EU, a fact about which the Government boasts. However, this is no excuse for complacency when our immigrant workers, who contribute to our economic growth, sometimes find themselves working in Victorian subsistence conditions. This situation has been highlighted by Senator White and the Leader, Senator O'Rourke before me so there has been an admittance of Government negligence in this area.

While we can be proud that our economic growth benefits more people than before, we should ask ourselves what we are doing for often exploited immigrant workers. These people have come to Ireland full of hope and the expectation of a brighter future, as Irish people were when they emigrated to America, Europe and elsewhere. It is a sobering experience to learn about the suffering our emigrant forefathers endured in America in the museum on Ellis Island in New York. Thankfully, we have come a long way since then and similar conditions do not exist today.

It is hard to realise any dream on a wage of €1 per hour. Indeed, it would be hard to stave off a nightmarish life involving a constant struggle to exist. This is the reality facing many immigrant workers in Ireland today, a reality more will face

in the future unless legislation to combat such abuse and exploitation is immediately introduced. What could have been a more fitting theme for the recent May Day rally than the rights and entitlements of migrant workers? The trade union-organised rally highlighted the harsh treatment many immigrant workers experience. Such abuses disgrace us all and give the lie to our position in the developed world.

Trade unions are under considerable pressure to cope with the volume of complaints from migrant workers concerning their treatment. Non-national workers are seeking help at union halls every day of the week. The number of complaints rises in proportion to the numbers of immigrants arriving in Ireland. Between 1 January and 31 March 2005, work permits were issued to workers from well over 100 countries. The situation facing Gama workers, which was referred to by practically every Senator this evening, is well documented and, while shocking, is not the first case of its kind. Unless appropriate legislative action is taken, it will not be the last case of its kind either. This state of affairs was highlighted by the protest at the opening of the new Lough Ree power station in Lanesboro in my own constituency of Longford in the presence of the Minister for Finance. The ESB was not responsible for the underpaying of workers but a contract company was guilty of the practice, as was also the case with Irish Ferries.

Allied with legislative change, we must examine the broader picture and the attitudes of those who have direct dealings with immigrants and immigrant workers. Government officials and staff are probably the first people to deal on a practical basis with immigrant workers and their approach and attitude is critical. Education in dealing with non-national workers must be provided for staff who have been thrown in at the deep end. Attention must be paid to the attitude of the Judiciary. Unfortunate instances of apparent prejudice by the Judiciary must not be repeated. Schools have an important role to play in promoting good race relations among children from a very early age. These important measures, combined with the Government's proposed joined-up approach to immigration through the establishment of a new agency within the Department of Justice, Equality and Law Reform to co-ordinate all aspects of immigration, from asylum seekers to foreign workers, should go a long way towards creating equality within a welcoming society.

Despite the best intentions, progress will not be dictated by the attitude of the Irish people in general. We must be honest and face the fact that we are, for the most part, intolerant of non-nationals. A recent poll commissioned by *The Sunday Tribune* showed that eight out of ten Irish people want restrictions on non-nationals. The poll highlighted that a significant proportion of the population wants the Government to restrict the number of non-nationals entering the country and has little one-to-one contact with non-

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nationals. This is evident in the fact that non-nationals tend to live in their own enclaves in both urban and rural communities and in many cases, do not integrate or are not encouraged to integrate with the wider community.

(Interruptions).

An Cathaoirleach: Order please, allow Senator Bannon to speak without interruption.

Mr. Bannon: While 77% of those polled believe that Irish people living illegally in the United States should be allowed to remain there, only 66% believed that non-nationals awaiting decisions on residency applications should be allowed to remain in Ireland. The unhappy picture presented by this poll is that while we as a nation were quick to accept the largesse of other countries and still hope to do so, we are now too grasping and self-serving to extend this hospitality to others. The concept of the Ireland of 100,000 welcomes is definitely one of our best known myths and legends. I await the Minister's response.

Mr. Martin: I welcome this opportunity to address the House on this important issue again. I also welcome the Senators' contributions, which will help inform the debate on the employment permits legislation that I will shortly introduce to the Houses. The Leader suggested I should bring it to this House first and I will try to oblige her if that is possible.

I will focus on the mutually beneficial outcomes arising from this relatively new aspect of our labour market. I endorse the Senators' comments on the importance of migrant labour to the success of the Irish economy from the late 1990s onwards. As Senators O'Rourke and White said, this has been an important factor in the successive growth rates our economy has enjoyed for a considerable period. I will try to respond to a number of issues that have arisen in the context of this debate, time permitting. I also wish to inform the House of imminent legislative proposals on employment permits and of ongoing Government policies and processes.

I will put the Government policy framework regarding the admission of migrant workers in context. Consistent with international practice, our policy is based on economic needs and seeks to address identified labour and skills shortages. Government policy must be responsive to the constantly changing environment because our labour market's needs continually change. Migration is, and will continue to be, an important part of our development and a major contributor to our shared economic and social goals. Strong economic growth in recent years led to a significant growth in employment levels. Since 1997, the number in employment has increased by nearly 450,000. At the same time, the number unemployed has fallen by almost

80,000 from 10.4% to 4.4%, approximately half of the EU average. The number of long-term unemployed has dropped by nearly 60,000 from 5.5% to 1.5%, approximately one third of the EU average. The latest figures for 2004 show there were 1.9 million people in employment in Ireland.

Ireland now has labour and skill challenges that have necessitated the recruitment of large numbers of overseas workers, principally from the European Union but also from a wide spread of locations. The scale of this is evident in the number of work permits issued in recent years to nationals from outside the European Economic Area. A total of 110,000 non-EEA nationals entered employment in the State in the past five years. Since ten new countries acceded to the EU in May 2004, 80,000 people, of whom 50,000 or 60% have been employed at some stage, have applied for PPS numbers. These are staggering statistics over such a short period.

Our economy is forecast to grow at twice the average EU rate, 4.7% in GNP terms in 2005. The outlook means there will be more skilled jobs to fill, which cannot be done from our own resources. We must pay particular attention to attracting the skills our labour market will require. The enterprise action plan published in March included the development of a skills-based immigration policy as a key task to support enterprise development. This is part of the strategy to move the economy to one that is both knowledge-based and innovation driven. Forfás and the expert group for future skills needs are currently engaged in research and consultations on the detailed issues entailed in the implementation of this policy, including the types of skills for which work permits and authorisations should be granted. We will publish a policy paper on this topic later this year.

To reassure the House, I will explain that the current work permits system incorporates a number of measures to ensure that employers adhere to Irish labour law in respect of migrant workers. By providing that it is employers who apply for work permits, this ensures the more effective enforcement of employees' rights and greater traceability. This is a matter we must focus on when the Bill is subsequently published due to the balancing issues involved. We must ensure we have a tracking and traceability system that allows us to get to the bottom of a situation when abuses are flagged. The debate has not been well balanced in this regard to date but we will have an opportunity to address the issue.

In making an application for a work permit, employers must provide details of the company, including its registration number, in order to ensure it is bona fide. An application for a work permit requires a statement counter-signed by the would-be employer and employee of the main functions of the job, salary or wages, non-statutory deductions, other benefits and hours to be worked per week. Work permits are not granted unless there is compliance with minimum wage

legislation or with the appropriate joint labour committee agreements, which set minimum salaries and conditions for certain employment categories and to which Senator Quinn referred. In addition, where an employer wishes to renew a work permit in respect of a non-EEA national employee, applications require documentary proof that the stated wages have been paid.

It should also be noted that, where there has been a breakdown in relations between an employer and a migrant employee, the work permits system in recent years has readily facilitated the worker's change of employment. In such circumstances, a new work permit is issued to the person's new employer. This concession acts as a further measure to ensure employers adhere to Irish labour law in respect of migrant workers, as it allows an employee to move to a new employer when there are genuine reasons for doing so.

The fundamental principle underlying the employment of migrant workers in Ireland is that they are treated exactly the same as Irish workers in terms of pay and conditions. This is underpinned in our equality legislation and also in the corpus of employment rights legislation, which is also applicable. For the avoidance of any doubt, legislative provision was made in section 20 of the Protection of Employees (Part-Time Work) Act 2001. No one in the House or elsewhere in Ireland would dispute this fundamental principle, which is perhaps best enshrined in the mantra of equal pay for equal work.

I am particularly conscious that legislation is not made effective just by being written into the Statute Book. To be effective, it must be acceptable, reasonable and enforced. Over the past 20 years or more, we have put in place a whole framework of employment rights and associated equality legislation. Much of this arose as the European social model evolved. All of this legislation was introduced with the support of this House and with the engagement and acceptance of the social partners. As such, it is an achievement of which we can be proud. There are now nearly 2 million people at work in Ireland, all of whom are covered by this body of legislation. Most people do not know or need to know the intricacies of the legislation. However, they are aware of their entitlements concerning hours worked, holiday periods, redundancy entitlements, protection from unfair dismissal and entitlements under the national minimum wage or registered employment agreements. Employers are likewise aware of their obligations. We have a body of legislation that has gained acceptance right across workplaces and the nation.

This is the legislative framework and the workplace into which migrant workers arrive, thrive and, as many do, prosper. Their experiences in the majority of cases are positive but I am profoundly disappointed when it is otherwise. As I said during my previous visit to this House, I condemn any exploitation of migrant workers in any shape or form. My Department, in developing

proposals for employment rights legislation, always consults the social partners. Likewise, I and my colleague Minister of State, Deputy Killeen, consult with the social partners in bringing proposals before Government and the Oireachtas for adoption. This ensures acceptance of the proposals and widespread compliance. To assist compliance, my Department adopts an integrated and complementary approach of information provision, inspection with a view to compliance and, if necessary, prosecution where compliance is not achieved. By way of illustration of these actions, it is worth examining the level of activity in each of these areas in 2004.

My Department's employment rights information unit received over 150,000 queries from employers and employees by telephone, e-mail or in person, inquiring about the operational features of employment rights legislation. In the majority of instances, the provision of clarification and user-friendly explanatory material on the legislation enables misunderstandings to be put right. I should also mention the invaluable assistance that the national network of Citizens Information Centres provides in delivering a similar service at local level with the support of the Department. People also seek information from the Department by way of the dedicated employment rights section of its website, which by far receives the greatest number of the Department's Internet hits. Information is generally provided by means of user-friendly frequently asked questions but people may also drill down through the explanatory books to the legislation and supporting statutory instruments.

Where particular issues arise, the information unit will either advise the labour inspectorate or direct individuals towards the rights commission service, which provides a redress system under certain legislation. The inspectorate also receives complaints from a variety of sources, including other Departments.

Last year the labour inspectorate conducted 5,160 inspections, so it is not as though people are sitting around waiting for things to happen. There is ongoing activity across the full range of legislation. Arising from this inspection activity and as a result of advice and guidance given, €486,000 was paid back to employees. In other instances holiday entitlements were established. There were 14 prosecutions initiated last year and the inspectorate currently has 600 cases under investigation.

It is clear that wide-scale acceptance of legislation is important and information provision greatly assists compliance. It must be said that when shortcomings are brought to their attention, employers generally readily comply and often cite a lack of appreciation of the body of legislation. The figures I referred to earlier must be placed in the context of a workforce of 2 million.

The labour inspectorate concentrates on those sectors of the economy where workers are vulnerable, either by reason of their age under the Protection of Young Persons Act 1996, or where

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there are joint labour committees establishing terms and conditions in, for example, the hospitality sector, security industry and the retail area. The existence of sectoral terms and conditions, agreed by the social partners in the joint labour committees, promotes acceptance but it also imposes a requirement that all employment falls into line and it is here that the labour inspectorate plays a role. I recently announced the appointment of an additional 11 staff for the inspectorate and it is my wish that these additional resources have a specific emphasis on sectors where migrant workers are concentrated. This is in keeping with the inspectorate's primary area of activity.

The legislative framework, while extensive, continues to evolve and develop. Of particular interest in this area are measures I intend to include in the employment permits Bill 2005. This Bill is in the final stages of preparation and will have, among its principal objectives, provisions for the protection of migrant workers' rights. It is intended that employers will be prohibited from deducting from their remuneration of migrant workers any costs associated with their recruitment. Employers will also be prohibited from retaining personal documents belonging to migrant workers. This will increase worker protection. The legislation will also address the question of who holds the work permit. In parallel, the Bill will enable the introduction of a green card-type system, which will allow highly-skilled and highly-paid people to enter the labour market in Ireland for an extended or indefinite period.

A number of reviews are currently under way with a view to simplifying and introducing coherence across the full body of employment rights legislation, as well as looking at the operational aspects of the employment rights bodies themselves and the legislative framework in which they operate. The framework for collective agreements reached through joint labour committees is also under review.

These reviews arise from the programme for Government and also the mid-term review of Sustaining Progress. The work now under way reflects an overall desire to revisit, simplify and consolidate the legislation, while not in any way changing entitlements under that legislation. The bodies and associated procedures for the vindication of employment rights are individually seen to be effective but the overall system appears to be unduly complex. The objective of the various reviews is to ensure a coherent and user-friendly system of employment rights legislation and vindication procedures through the employment rights bodies.

I am bringing proposals to Government that will result in the establishment of an employment rights group on which the social partners and the employment rights bodies will participate. This group will oversee a process that will simplify and streamline the complaint, appeal and enforce-

ment procedure across all of the bodies. Customer focused working groups will be established in each of the bodies to address identified issues and a programme will be implemented to simplify, harmonise and consolidate the corpus of employment rights legislation. I look forward to bringing a consolidated employment rights Bill to this House, which will be developed in conjunction with the social partners.

The mid-term review of Sustaining Progress requested that a review be undertaken of the mandate and resourcing of the labour inspectorate. Following this, a discussion document was sent to the social partners for comment last January. The review highlights that the complexity of legislation in the employment rights area is impeding understanding and compliance. Likewise, there are confusingly different roles for the inspectorate under different Acts and this gives rise to ambiguities. These legislative anomalies are among the issues that will be addressed by the Government in developing a consolidated employment rights Bill. The discussion document was well received and a spectrum of possible models for compliance checking and enforcement have been identified and presented for consideration. Deliberations with the social partners will begin when the Department receives their final responses to the discussion document. However, it must be pointed out that the document signals that fundamental changes in approach must be considered.

A review of the joint labour committees is currently being undertaken by the Labour Relations Commission and the final report will become the subject of interaction with the social partners.

Last May my Department published a discussion paper reviewing the operation of the Employment Agency Act 1971. Having reviewed submissions from a range of interests, including the social partners, my Department is currently finalising a policy paper which, following consultations with the Office of the Attorney General on some of its details, will be circulated for further comment. The intention is to bring a legislative proposal to Government following this second round of consultations.

At present the proposal is that all employment agencies, both Irish and overseas, will be required to be registered. All such agencies will be required to comply with the terms of a statutory code of practice, which would set out the practices and standards for their operations. The code will be overseen by a statutory monitoring and advisory committee and it would make recommendations on the revocation or suspension of registration and/or the prosecution of employment agencies that breach the code. It is my intention that any employer who recruits a worker from an unregistered agency, either Irish or non-Irish, will be guilty of an offence and liable to prosecution. These proposals will shortly be contained in a policy paper and all comments on them will be welcome.

The legislative framework is dynamic and evolving with the needs of all and this is as it should be. It ensures that the employment rights legislation is acceptable and practical in its operation. The House will recognise that the development of our legislative framework is ongoing, responsive to actual workplace experiences and undertaken in the context of partnership. I am confident that the resulting improvements will have widespread support both within and outside the House.

The cornerstone for our employment rights regime is that no distinction is made between Irish and migrant workers. That is the spirit of the motion before the House, that all workers, irrespective of whether they are Irish or not, should be treated the same.

When I was last in this House discussing this topic, on 12 April 2005, the emphasis was on a particular situation that was unfolding involving Gama Construction and its operations in Ireland. At the time I was precluded from commenting on that case because the matter was before the High Court. Given the level of disquiet raised by this matter, I am most grateful to the courts for the urgency accorded to the full hearing of the matters at issue, which is continuing in the High Court today.

I wish to update the House on developments concerning Gama Construction. I can inform Senators that today, on completion of the natural justice requirements of interested parties and with the permission of the High Court, I am sending the labour inspectorate report into alleged breaches of employment rights in Gama Construction Limited and related companies to the Minister for Social and Family Affairs, the chairman of the Competition Authority, the Director of Corporate Enforcement, the Garda Commissioner, the Director of Public Prosecutions and the Revenue Commissioners. All of these bodies have prosecutorial powers.

Over the May bank holiday weekend the Labour Relations Commission completed exploratory discussions with SIPTU, Gama Ireland and Gama Turkey on issues central to the current dispute between the parties. The commission believes that, with the co-operation of the parties, it is in a position to assist in the resolution of these matters. I believe that a process of engagement between the parties, chaired by the Labour Relations Commission and with the commitment of both parties, can result in a positive outcome. I urge continuing engagement with the Labour Relations Commission, as all matters are ultimately capable of resolution.

I have attempted to demonstrate to Senators that the Government is very conscious of the contribution of migrant workers and places particular emphasis on ensuring migrant workers' rights are protected from the moment of engagement with the Irish workplace. We will take lessons from experiences to date and apply those lessons to legislative and other policy proposals.

Irish workplaces have shown great generosity in the past in responding to various challenges and I urge them to look to those who are new to this country and I encourage them to offer guidance and support. It is to everyone's advantage that we have open and welcoming workplaces. I endorse the statement from Senator Quinn and am interested in his point about language training. I acknowledge that more must be done in conjunction with the social partners. We have had some preliminary discussion with the social partners about how the Department can be more supportive in areas like language training for union members and so forth. There is a serious issue surrounding language and communications, which was clearly demonstrated in the Gama Construction case. Senator Quinn is correct in arguing that employers, trade unions and Government have a collective responsibility to ensure that workers' rights issues are dealt with correctly. We can do that if we work together.

I am aware of the contents of the motion before the House but I hope that Senators will accept our bona fides on this issue and that we can all agree on the broad principles of the way forward, in terms of migrant worker legislation, rights and entitlements.

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

I thank the Minister for passing the information concerning Gama Construction to the authorities that can take action because that is crucial. The Minister was overly coy in his speech in saying legislation will address ownership of the permit. What will this legislation state? Who will hold the permit? The permit application should be initiated by the employer and, if granted, should be granted to the employee. The employee should be able to get the permit renewed or changed at the Department of Enterprise, Trade and Employment. I have been very impressed by officials at the Department in their commitment to labour and equality legislation. The problem is not within the Department. The problem lies in the staff numbers in the inspectorate. We need an enlarged inspectorate.

I am frustrated that trade unions and Government are dealing with this issue. Where is the contribution from IBEC? For every unscrupulous employer there is another fair employer who is being undercut and is at a disadvantage.

Mr. Norris: Hear, hear.

Mr. O'Toole: This situation is not in our interest. IBEC should be asked to speak up on this issue. We need to increase the inspectorate size and we need to ensure the work permit becomes the property of the employee. Any outstanding EU procurement directives should be put in place.

A culture of impunity appears to be developing among some employers. I am uncomfortable with all employers being tarred with the same brush

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as Gama Construction Ireland Limited. That is grossly unfair. Those who are acting unscrupulously and exploitatively are doing so with some impunity. The legislation should be framed in such a way that a company is required to prove compliance if challenged. The Minister's work would be easier and the number of inspectors could be reduced if agreement were reached with employers that registered and accredited trade union representatives could see the facts for themselves. This would save calling in the Department's inspectors and would prevent exploitation. Companies seeking permits should be required to prove to the Department that they are fair employers. According to the information on the Department's website this point needs to be proved. There should be a requirement to issue payslips and any company that does not issue payslips should be in trouble.

When companies compete for public contracts the Department should be reassured the employers are compliant. In recent years the Minister has said the work permit system has readily facilitated the change of employment of the migrant worker. I do not agree with that. I agree with the Minister's point that registering every employer ensures traceability. I would like this to be done for employers overseas and it should happen immediately. Once the employer initiates the permit it should be the property of the worker and the worker should be able to renew it in accordance with the existing procedure. The Minister should be satisfied the company is compliant with labour and equality legislation. Not only should migrant workers be paid a reasonable amount, they should be paid the same as their Irish colleagues.

I compliment the Minister, the Department and the Government on introducing the new minimum wage on May Day. This happened despite the mealy-mouthed attitude of IBEC. It was a nice gesture and it is good to see things moving in the right direction.

Mr. B. Hayes: The key issue is the way in which the permit system works. As long as the employee is tied directly to the employer and the employer holds the permit, the employer has control. Ireland was brought before the United Nations because of the way our system operates. We need to see changes to give much more control to migrant workers. The Minister says a system similar to the green card will come into place. This would allow highly-skilled, highly-paid people into the country but will not include the majority of people who enter this country.

Why has Ireland not ratified the UN convention on the protection of the rights of all workers and members of their families? Since it came into being in 2003 we have not ratified this. All of the issues the Minister mentioned in his speech are included in this convention. We have not heard an explanation why this has not been transposed

into Irish law and why we have not signed up to it. I ask the Minister the reason for this.

Mr. Norris: This is an extraordinary situation. I grew up in a time of mass emigration. Now we have an inflow of workers into the country. It is an indication of economic health. It is also driven by globalisation and market-driven. It is not altruism on the part of Ireland. The Minister says the work permit system has readily facilitated the change of employment of the migrant worker. I do not believe that and plenty of cases would contradict the Minister's statement. There has not been easy transfer of the work permit. Employers have used their possession of the permit to restrict the human rights and wage entitlements of people in this country.

The Minister also said 5,160 inspections led to 14 prosecutions. The number of prosecutions is quite low. I understand the figure for this year is similar. It is important that additional personnel be put in place. In 1999 there were approximately 5,000 applications for work permits. In 2003 it was approximately 50,000, ten times the original figure. That is a real problem.

The solidarity shown by Irish workers and trade unionists is one of the things of which I am most proud. On a number of occasions when workers were being viciously exploited, and additional workers were bussed in, local Irish workers went on strike in solidarity with migrant workers. One example of this occurred in Mullingar. The Government should give as much support as those workers gave. I welcome the proposed introduction of a work permits Bill this year.

Although this may not be entirely the right time to raise this issue a senior Minister should know of these situations. I refer to hostels used for migrant workers and by the Department of Social and Family Affairs. There is a tragedy waiting to happen and it will probably happen in Dublin. I am serving notice on the Government regarding what happened in Paris recently. One of these shambolic hostels went on fire and people were killed. I know of a situation where an Irish property developer, who exploits migrant workers, has four listed buildings in Gardiner Street. He has savaged them and ripped out the insides. He is on the enforcement list of Dublin Corporation for breaking all its planning laws. He has a property on Adelaide Road that went on fire. Several people were injured as they jumped out of a second-storey window. On the same day he was in court on the enforcement issue Dublin Corporation granted him permission for 28 additional units in the backyard of the property in Gardiner Street. What is going on? Why are properties used by migrant workers and asylum seekers never inspected by the fire services and the health services? People will be killed. It is time the Government investigated this matter.

Mr. Morrissey: I wish to share my time with Senators Mansergh and Leyden.

Mr. B. Hayes: The Senator should commence immediately.

An Leas-Chathaoirleach: Only two minutes remain.

Mr. Norris: Can we expand the time allowed a little?

Mr. Morrissey: As someone who has employed migrant workers I feel very annoyed that there are unscrupulous employers who have gotten away with exploiting these workers for years. The greatest service we can provide for migrant workers is integration. The only way that is possible is through language. The difficulties with Gama Ireland Construction Limited would not have happened if those workers had received language training before coming to Ireland. That is the best course of action if we need these people for the long term.

In the early days of the permit system many unscrupulous foreign agencies entered this country with lever arch files full of bogus permits.

7 o'clock These permits were paid for by migrant labourers on Friday evenings. Every three or four weeks the labourers were threatened with deportation if they did not give money to bogus employment agencies. Some immigrants did not come as asylum seekers but came in good faith as economic migrants. Unfortunately, many still live here in fear and on the run. These people are being exploited. I am aware of situations where immigrants are exploited because they earn such good money that they do not want to return home. However, I am surprised that employers remain willing to employ people without permits despite risking fines of €250,000 for doing so. Labour inspectors may not be aware of such employers. I appeal to the Minister to grant an amnesty to these unfortunate immigrants because they contribute to this economy.

Mr. Leyden: I thank the Minister for being here over the past two hours. He acquitted himself well with his speech and acted promptly on this matter. We welcome the new legislation he will bring to this House. People should bear in mind that Gama workers were exploited by Turkish rather than Irish employers.

Mr. B. Hayes: There were also a few Irish employers.

Mr. Ryan: Good old Irish employers.

Mr. Leyden: Our amendment has been amended.

An Leas-Chathaoirleach: Senator O'Rourke raised that matter and we will discuss it after Senator Ryan speaks.

Mr. Leyden: I hope that Senator Ryan will accept the amended motion without calling for a division.

Mr. Ryan: I have tried to avoid excessive accusations other than criticising the Government's lethargy on this matter. The Minister's proposals are interesting but I wish to ask him one question. Given the range of nationalities of immigrants, in what language will the prospective employee sign the section of the application for a work permit which lists the functions of the job, salary, wages, deductions, etc.? I would lay odds of a pound to a penny that the worker signs it in English. It is not impossible to insist that an employee may sign a document which is sent to the Minister's Department in a language that he or she can understand.

I agree with the reasons given by Senator Morrissey why this issue should not become one of giving a license for exploitation. If a culture of exploitation is allowed to exist, the business position of this country's decent employers would be undermined. Unlike Fianna Fáil, I do not believe that all our workers are exploited.

Mr. Leyden: We do not believe that.

Mr. Ryan: I thought Deputy Joe Higgins got his hands on the Fianna Fáil amendment. This is not simply a moral issue but it is also an important business one. We do not need extensive legislation to deal with the immediate issue. We need to spend €50,000 to translate all our basic documentation into the language of each significant group working here. A Ukrainian immigrant worker should have a copy of this material available in his or her own language. This may be available but significant omissions exist in the list of languages on the Department's website. That is wrong. I was astonished that Turkish was not on this list. I thought that the Department would have generated documents in Turkish over the past weeks out of shame if for no other reason. I am concerned about a system based on work permit holders with high levels of skill who are not affected by exploitation. A person with computer or engineering skills may negotiate his or her position. Those who are recruited for work as contract cleaners or providers of basic kitchen services do not have skills.

Mr. Martin: The vast majority of those now come from the European Union. They will not need work permits.

Mr. Ryan: I base my information on the Department's website.

Mr. Martin: This has been the reality since May 2004.

Mr. Ryan: Am I to accept that the 150 Moldovans, 450 Ukrainians or 122 Bulgarians who received work permits since 1 January are all highly skilled? They are not. If those people are

[Mr. Ryan.]

brought here and tied to their employers' work permits, they will remain vulnerable to the threat of exploitation. This workforce is complex in terms of language, culture and political history. In addition to changing the work permit system, a proactive labour inspectorate is required to enforce the law rather than say that investigations can only be carried out after a complaint is received. How will a complaint be received from people with fewer than two words of English? Three weeks ago, a tiler who was supplied by a legitimate contractor to work in my home could not inform my wife of his role because of his limited English. How will he complain if he is badly treated? The only solution is to ensure that the rights of these people are protected. Otherwise we will begin a process which will result in the exploitation of Irish workers generally and not only immigrant workers.

An Leas-Chathaoirleach: Senator O'Rourke proposed an amendment to the amendment.

Ms O'Rourke: May I repeat the amendment?

An Leas-Chathaoirleach: For clarification.

Ms O'Rourke: The original amendment included the words: "condemns exploitation of all workers in Ireland". It was brought to our attention by Senator Quinn that this implied that all workers were being exploited at all times. It has been proposed to amend this wording to read: "condemns exploitation of all workers in Ireland, wherever it occurs".

Amendment to amendment agreed to.

Question put: "That amendment No. 1, as amended, be agreed to."

The Seanad divided: Tá, 28; Níl, 19.

Tá

Brady, Cyprian.
Callanan, Peter.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Leyden, Terry.
Lydon, Donal J.
MacSharry, Marc.

Mansergh, Martin.
Minihan, John.
Morrissey, Tom.
Moylan, Pat.
Ó Murchú, Labhrás.
O'Rourke, Mary.
Phelan, Kieran.
Quinn, Feargal.
Ross, Shane.
Scanlon, Eamon.
Walsh, Jim.
Walsh, Kate.
White, Mary M.
Wilson, Diarmuid.

Níl

Bannon, James.
Bradford, Paul.
Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Cummins, Maurice.
Feighan, Frank.
Finucane, Michael.
Hayes, Brian.

McCarthy, Michael.
McDowell, Derek.
McHugh, Joe.
Norris, David.
O'Meara, Kathleen.
O'Toole, Joe.
Phelan, John.
Ryan, Brendan.
Tuffy, Joanna.

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

Question declared carried.

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: Tomorrow at 10.30 a.m.

Adjournment Matters.

General Practitioner Services.

Mr. Wilson: I wish to raise with the Minister for Health and Children the concerns of the local

community at the level of general practitioner services in Shercock, County Cavan.

My colleague, the Minister of State, Deputy Brendan Smith, and I received representations from Councillor Francis McDermott and the local community on the decrease in the level of general practitioner services in the town of Shercock, County Cavan. At present, the GP hours of service in Shercock are Monday, Wednesday and Friday from 9 a.m. until 11 a.m. I understand from Councillor McDermott that a letter dated 13 March 2005 was circulated to the people of Shercock informing them that, as and from 9 May 2005, there will only be a Monday afternoon

clinic from 2 p.m. to 4 p.m. and a Friday clinic from 9 a.m. to 11 a.m., and that there will be no clinic on Wednesday from then on. This was the first the local community heard of this change, which came like a bolt out of the blue. The letter also explained that patients from the Shercock area could be seen in the clinic in Carrickmacross, County Monaghan, at all other times.

I understand that a very well attended public meeting organised by the community council took place last night in Shercock, and the community voiced its concerns about the reduction in GP services. To date, more than 900 people have signed a petition calling on the GP hours to be retained and, indeed, increased. Councillor McDermott also received letters from factories in the area, one of which employs more than 400 people. They are very unhappy for health and safety reasons that the clinic times are being reduced further.

The GP group practice located at Cloughvalley, Carrickmacross, County Monaghan, appears to be neglecting the people of Shercock and the surrounding area, which is not acceptable. Last Thursday, my colleague, the Minister of State, Deputy Brendan Smith, organised a meeting which I attended with Councillor McDermott in the Health Service Executive, North-East Area, offices in Navan. We met with Ms Anne-Marie Hoey, director of primary care services, who was very helpful. As a result of the meeting, I received a letter yesterday from Ms Hoey stating that the executive is currently exploring a number of options that will ensure the provision of a satisfactory GP service in the locality and that she hopes to reach a satisfactory solution.

It is not acceptable that the people of the town of Shercock, with a population in the greater Shercock area of more than 1,000, will be without GP services for the bulk of the week. I urge the Minister of State to have the current times retained and, if possible, to have the times of the clinics increased because the people of Shercock deserve a general practitioner service.

Minister of State at the Department of Health and Children (Mr. S. Power): The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes the securing of appropriately trained general practitioners to provide services to medical card holders under the general medical services scheme in its functional area.

General practitioner services are being provided to persons who hold medical cards and who reside in Shercock, County Cavan, by general practitioners who are based in Carrickmacross. This area comes under the responsibility of the Health Service Executive's north-eastern area. These GPs provide a number of clinics in Shercock. Patients may also attend the GP practice premises in person during normal surgery times

by appointment or at walk-in clinics where no appointment is necessary. Domiciliary visits, where clinically necessary, are also provided. Out-of-hours cover for the Shercock area is provided by the North East Doc Co-operative, which operates from 6 p.m. to 8 a.m. Monday to Friday, and all day Saturday Sunday, public and bank holidays.

The Health Service Executive's north-eastern area has advised the Department that officials from its primary care unit met with a group of public representatives from the area last week, which included Senator Wilson. The officials explained that they are currently exploring a number of options in regard to GP services in Shercock and they hope to reach a conclusion in the near future. The officials undertook to keep the group apprised of developments.

As regards manpower levels in general practice, the Department of Health and Children met with the Irish College of General Practitioners which is responsible for the organisation of training of GPs in Ireland. It was agreed with the college to increase the number of training places from the current 84 to 150. It was agreed with the Irish College of General Practitioners that this would best be achieved on a phased basis with 22 new places being provided in each of the years 2005 to 2007. Funding was provided to allow the Health Service Executive implement this development in 2005.

Health Services.

Mr. Cummins: I welcome the Minister of State to the House. Cancer patients in the south east who must travel to Dublin for radiotherapy treatment have the worst transport options in the whole country. While taxis and ambulances are laid on in other parts of the country, and rightly so, patients in the south east are expected to make their own way to the nearest hospital before travelling to Dublin, or else make their own way to Dublin.

In August 2004, the South Eastern Health Board admitted to the national radiation-oncology co-ordinating group that, unlike other health boards, there was no structured dedicated system in place in the south east. In Waterford, efforts are made to accommodate patients using public transport. Obviously this is not suitable in trying to make appointments at acceptable times. Most patients in Waterford travel with their family in a private car. In Wexford, a mini bus leaves the general hospital at 8 a.m. each day but patients must make their own way to the hospital. In Kilkenny, a mini bus leaves for St. Luke's Hospital at 7.30 a.m. each morning and will only collect patients in exceptional circumstances.

The Minister for Health and Children, Deputy Harney, has repeatedly referred to the Health Service Executive's dedicated transport arrangements for cancer patients. However, this is certainly not the case in the south east. When will the Minister match her words with actions and

[Mr. Cummins.]

how long more will seriously ill people have to put up with the current *ad hoc* system?

The provision of a public radiotherapy facility in Waterford Regional Hospital, as promised by the Government parties before the last general election, is the ultimate solution to the problem. The Minister had talks recently with consultants regarding a public private partnership to provide a dedicated cancer facility, including a radiotherapy facility, on the grounds of Waterford Regional Hospital. Will the Minister of State indicate when a decision will be made on this matter? Time is of the essence. It would take some years before the radiotherapy facility would be up and running. In the meantime, more and more people must endure the pain and suffering involved in travelling to Dublin for a service that should be delivered in the south-east.

Mr. S. Power: The Government's policy on radiation oncology is based on the report entitled *The Development of Radiation Oncology Services in Ireland*. Considerable investment will be provided for in the coming years. The central aim is to ensure access by cancer patients throughout the country to high-quality radiation oncology in line with best international standards.

Significant progress is being made in implementing the report's recommendations. In 2004, approval was given to open the new radiation oncology department in University College Hospital, Galway, and to expand capacity at Cork University Hospital. The immediate developments in Cork and Galway will result in a significant increase in the numbers of patients receiving radiation oncology in the shorter term.

The centre at Cork University Hospital will provide services for patients in the southern, south-eastern and mid-western areas. Approval has issued for the purchase of two additional linear accelerators for this centre and the necessary capital investment, amounting to over €4 million, to commission this service as rapidly as possible. These linear accelerators were ordered and the first has been installed. It is expected that the second will be installed and commissioned by the autumn. Two additional consultant radiation oncologists will be appointed at Cork University Hospital and will have sessional commitments to the south-eastern and mid-western areas.

A national radiation oncology co-ordinating group was established comprising clinical, technical, managerial, academic and nursing experts from different regions. The group's remit encompasses recommending measures to facilitate improved access to existing and planned services, including transport and accommodation. The group is currently developing a national telesynergy network for oncology services. The Health Service Executive, South-Eastern Area, has advised the Department that a telesynergy system should be installed at Waterford Regional Hospital. Arrangements are now being made to install this technology at the hospital. It will

enable the hospital to develop improved linkages with the centre at Cork University Hospital and St. Luke's Hospital, Dublin. Some €1 million has been earmarked for this development, which will improve access and reduce consultant and patient travel time.

Since 1997, the Health Service Executive, South-Eastern Area, has received an investment of approximately €55 million for oncology services, including this year's allocation of an additional €710,000 from national cancer strategy funding to address increased regional pressures in oncology services. This funding has provided for the approval of an additional ten consultants in key areas of cancer care. The funding has also provided for the appointment of 26 cancer care nurse specialists across the south-eastern area.

I fully acknowledge the trauma patients and their families experience as a result of a diagnosis of cancer. I also acknowledge fully the difficulties associated with travelling times and distances for cancer treatment, including radiation oncology. Such treatment is often necessary over a period, frequently when patients are ill. The overriding requirement is that patients have access to quality care in line with best international standards. This requirement cannot be compromised for geographic reasons. However, the health services are required to examine innovative and improved transport solutions.

The transport policy in place in the Health Service Executive, South-Eastern Area, is based on individual patient need. Transport is provided by the executive for patients whose medical conditions require such support and for those patients who are unable to make their own transport arrangements. The Health Service Executive has assured the Department that patients in genuine need will be provided with transport. The Health Service Executive, South-Eastern Area, will examine requests on a case-by-case basis. Frequently, family members will want to provide such transport and to accompany their relatives for treatment. It is important to recognise this commitment of family members to the care and support of relatives.

The Government is committed to the development of cancer services in the south-eastern area. All the developments I have outlined will bring substantial benefits to people living in the south-east. The Government will continue to work with the management of health services in the area to ensure that the best possible service is available. I am glad to have had the opportunity to place on the record of the House the substantial developments that continue to take place in cancer services nationally and in the south-eastern area in particular.

Mr. Cummins: I asked whether there will be a dedicated transport service for cancer patients in the south-east. It is available in all parts of the country except this region and the Minister of State has said this. The issue has been fluffed in that he stated the transport service is tailored to

individual needs. This is not the case in other parts of the country. Why are the people of the south-east being discriminated against in this regard?

Mr. S. Power: The Health Service Executive has assured the Department that patients in genuine need will be provided with transport.

Mr. Cummins: Anybody with cancer has genuine need.

Mr. S. Power: I do not dispute that, but I have made the point that I am assured by the Health Service Executive that where there is a specific need for transport it is provided. If the Senator has a case in mind regarding which this has not happened, and which he wants me to follow up, I will be happy to pursue it on his behalf.

Mr. Cummins: I have many cases in mind.

Port Development.

Mr. Finucane: I thank the Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Gallagher, for taking this Adjournment matter. On 5 April, Limerick County Council received a planning application from Shannon Foynes Port Company for the reclamation of 0.9 hectares and the replacement of the public slipway. The port company enraged the local community when it decided to block off the public slipway with boulders on 15 April. I received a telephone call notifying me of this action on the part of the company. I went to Foynes and saw what it had done.

As a native of Foynes whose late father and whose relatives were synonymous with the development of the port, I was also annoyed by the port company's actions. I subsequently contacted the Department of Communications, Marine, and Natural Resources and informed it of developments. On 18 April, the coastal zone management division wrote to Limerick County Council informing it of its concerns. The letter stated, "In the circumstances, the Department considers that it would be inappropriate for the council to consider any application from the company in respect of the proposed developments on State-owned foreshore." Surely the port company resolved the issue of a foreshore licence before applying for planning permission.

On 3 May 2005, the port company withdrew its planning application. Not only had the Department expressed its objections but there were also objections from within the community, with further objections to follow. Rather than accepting the inevitability of the withdrawal of the planning application, the chief executive, on behalf of the port company, issued an inflammatory statement preceding the public meeting held on 3 May. It states: "The company has no option but to assume that the community has decided that the port activities of the company are unwelcome at Foynes". It also states: "The company

has learned of a co-ordinated movement towards objecting to developments at Foynes Port in County Limerick". These are disgraceful statements about a community that has been very tolerant over the years and which has shown much good will towards the port company.

Rather than criticising the community, the chief executive should concede that the approach adopted was totally wrong. I ask the Minister of State to issue an instruction to the chief executive and his board to have proper discussions with the local community in Foynes on the various port-related issues that have arisen. This would be important to ensure that the community and port company can act in harmony for the betterment of Foynes.

I thank the officials in the Department of Communications, Marine and Natural Resources to whom I spoke on a few occasions about this issue. They were most helpful and appeared to be annoyed at the problems in Foynes.

Minister of State at the Department of Communications, Marine and Natural Resources

(Mr. Gallagher): I thank Senator Finucane for raising this issue. Shannon-Foynes Port Company applied to my Department on 5 April under the Foreshores Acts for permission to reclaim 0.9 hectares of a small harbour at West Quay in Foynes to facilitate the temporary storage of containers. I am not aware of any application to Limerick County Council.

This proposed development would have impacted on an existing public slipway adjacent to the N69 road. Consequently, the company's application included a proposal to construct a new slipway at the north-western corner of the harbour to accommodate existing users. Consultants acting for the port company contacted the Department earlier this week, indicating that the port company was withdrawing its application. The company gave no reason for that decision and did not indicate how it proposes to proceed in this matter.

Any further application the company may wish to make in respect of this proposal would fall to be considered in the normal way under the Foreshore Acts. I am obliged to ensure that any application must meet the criteria of the Acts and follow that normal practice. This would involve, among other things, the giving of public notice of the application by way of a newspaper advertisement, so that all interested persons or bodies would have an opportunity to inspect the proposals and comment on them.

Senator Finucane quoted the statement by the company but unfortunately I cannot be responsible for the statements of all those under our control but I note what he said. I assure the Senator that all relevant issues and concerns will be fully considered before a decision is made on any further application from the company. I appreciate his reference to the importance of engagement with all interested parties and the necessity for good will.

[Mr. Gallagher.]

I thank him for his kind comments about the information acquired from officials in my Department and shall pass on his comments to them. The information is in the public domain. Now that the application has been withdrawn we must wait and see if there is a further application and whether it complies with legislation.

I thank the Senator for raising the issue. It may not be the last time this matter is raised but I shall be happy to return to the House to answer any questions.

Mr. Finucane: Will the Minister of State speak to the appropriate officials in the Department? The meeting last night was stormy but ended on a constructive note. The community wants to meet the harbour board and discuss its concerns.

I seek only a constructive approach from the port company. The Minister of State's reply has offered some reassurance on this point. Will he ask his officials, as a matter of good neighbourliness and citizenship, to speak to the community about these issues and to meet them with a constructive attitude?

Mr. Gallagher: I will speak with the officials in the Department. I made a general comment on leases. Apart from complying with the criteria and conditions in the legislation, it is important to engage with parties affected by any such development whether in Foynes or elsewhere. Good will is important.

The Seanad adjourned at 7.45 p.m. until 10.30 a.m. on Thursday, 5 May 2005.