

SEANAD ÉIREANN

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Dé Máirt, 10 Bealtaine 2005.
Tuesday, 10 May 2005.
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Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for the Environment, Heritage and Local Government to ensure that full and proper deer counts of both the native red and Sika species are organised, conducted and taken into account before any final decision is taken regarding a deer cull in the Killarney national park or the vicinity thereof; and to make a statement on the matter.

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

The need for the Minister for Education and Science to indicate when the extension to Portleean national school, Kilmacrennan, County Donegal, will be approved.

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

The need for the Minister for the Environment, Heritage and Local Government to make a decision on the route for the Waterford city bypass as a matter of urgency.

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

The need for the Minister for Social and Family Affairs to clarify the current status of the social welfare office in Castlecomer, County Kilkenny.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and I

have selected the matters raised by Senators Coughlan, Tuffy and McHugh which will be taken at the conclusion of business. Senators Cummins and Browne may give notice on another day of the matters they wish to raise.

Visit of Tasmanian Delegation.

An Cathaoirleach: Before I call the Leader of the House on the Order of Business, Members of the House will wish to join with me in welcoming the Honourable Michael Polley, Speaker of the Tasmanian House of Assembly, and Mr. Peter Alcock, Clerk to the Assembly, who are in the Distinguished Visitors Gallery. On my own behalf and on behalf of my colleagues in Seanad Éireann, I extend a very warm welcome to you and sincere good wishes for a very successful visit.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Sea Pollution (Hazardous Substances) (Compensation) Bill 2000 — Second Stage, to be taken at the conclusion of the Order of Business and to conclude not later than 5.30 p.m. Spokespersons have 15 minutes each and other speakers have ten minutes each, with the Minister to be called upon to reply not later than ten minutes before the conclusion of Second Stage.

Mr. B. Hayes: I have no difficulty with the proposed Order of Business. Will the Leader of the House send a note of congratulations, on behalf of the House, to Prime Minister Blair on his historic third term? We have not had a chance to meet since the election in the United Kingdom last week. Mr. Blair has won an historic third term for the Labour Party, although reading Sunday's newspapers one might think it was not a victory. Clearly, however, he has a mandate to do many things. One of them, which this country seeks, is to secure a complete conclusion to the peace process and to the outstanding elements in the Good Friday Agreement.

Does the Leader agree that one of the most important figures in unionism since Faulkner and O'Neill was David Trimble? The loss of his seat in Upper Bann is, in many respects, a defeat for the decent middle ground in Northern Irish politics in which people seek to reach out to both communities. David Trimble is a politician who took substantial risks for peace. Despite the difficulties that now pertain in Northern Ireland and the difficult times that lie ahead, the bottom line is that his analysis is the only one through which we can find ultimate peace and the implementation of the Good Friday Agreement. I urge both the British and Irish Governments to do everything they can to bring the political situation in Northern Ireland to a head and to ensure the Good Friday Agreement is implemented.

It will be difficult. I recall the words of a former Member of this House, Séamus Mallon, who recently spoke about the Balkanisation of

[Mr. B. Hayes.]

Northern Ireland. We must ensure that the unique political message of the middle ground in Northern Ireland continues to be heard in Northern Ireland and throughout these islands. Both Governments must do everything they can to help that process.

Last Friday, there was a type of Mexican stand-off between the McBreartys and the Minister for Justice, Equality and Law Reform about the issue of costs at the tribunal. I have raised this issue previously with the Leader of the House. Will she invite the Minister for Justice, Equality and Law Reform to the House to outline the outstanding difficulties? Everybody wishes to see the tribunal work well but this is an urgent matter which should be discussed in the House. Senator O'Toole proposed at the time that the House debate the first report of the tribunal. It seems ridiculous that agreement cannot be reached between the McBrearty legal team and that of the State to bring these matters to a conclusion. I ask the Leader to use her good offices to speak to the Minister for Justice, Equality and Law Reform about this issue.

Mr. O'Toole: Over the weekend I started reading the book written by the woman who was a central character in that debate. It is absolutely incredible. I would welcome a debate on the matter.

Last week I raised the Marino college case. I put on record my thanks to the Leader of the House for raising it with the Minister for Education and Science. I welcome the fact that the Minister has now put in train an investigation into one aspect of the issue. I appreciate that and thank the Leader.

It does not take much analysis to work out what happened to David Trimble. We discussed the Good Friday Agreement many times in the House. The Agreement was very clear. A crucial, fundamental and essential part of it was that the IRA would stand down, that there would be total decommissioning and demilitarisation. That was the message David Trimble tried to sell to his followers and to the Ulster Unionist Party.

At some stage in the past couple of years UUP followers or members came to the same conclusion many people in this House had come to previously, namely, that decommissioning, demilitarisation and putting arms beyond use was not going to happen. Therefore, the UUP voters lost trust and confidence in the Agreement and voted against David Trimble. That is what happened. It does not require a very complex analysis.

As Senator Brian Hayes said, we are now faced with the difficulty of putting the pieces back together. That essentially means trying to gain and win the trust and confidence of a significant portion of the Unionist community. That is the challenge that is before us and the British Prime Minister, Mr. Blair. I do not know how we are going to do this but we do have to look at it. I

would welcome a debate so people could put forward creative ideas as to how we might achieve that objective.

Last weekend a garda in Carrickmacross went to investigate something suspicious on the bridge in the town. For doing his duty he found himself grappled with and thrown over the bridge. He is still in hospital with numerous fractures. The way things are in society, it is hardly worth more than half a paragraph in the newspapers. It is quite appalling that a public servant, a guardian of the peace, working on our behalf should be treated so badly.

Last Friday in a little post office in Glasnevin which was being held up, an African man went to the aid of staff. At great personal risk, he threw himself at the man who was holding up the post office, grappled with him and they both went through the window. He held the man down until gardaí arrived. The first thing the gardaí heard was the man on the ground who had been attempting to rob the post office say: "I want this man sued." That is the point we have reached in society. Litigious Ireland has gone beyond all control. We must have some indication from the Minister on how we can change attitudes in this area so we can stand together.

Mr. B. Hayes: That is the first step.

Mr. Ryan: This House has stood firmly behind the family and friends of the late Robert McCartney. Yesterday it was stated on RTE that the family insisted Mr. McCartney was killed by the Provisional IRA. Today it was stated on RTE that Mr. McCartney was alleged to have been killed by members of the Provisional IRA. Robert McCartney was murdered by members of the IRA. It is not an allegation made on the insistence of the family, it is a fact. I have no idea why our national broadcaster appears to want to dilute that fact by putting it the way it has done. Is it that it thinks the IRA will sue it for libel? There is no need for this. No person has been named. I will not say I find this dilution of that most offensive crime sinister, but it is a sloppy use of language by our national broadcaster.

There was another leak from Sellafield which we did not hear about until recently. As a sometime engineer, part of the report horrified me. It states, "The company has yet to devise a way to get the highly radioactive liquid out of the chamber." That is where it has leaked into. If those involved do not know how to get it out, they never expected it to happen. I say this with some professional competence, though I am not trying to claim expertise. If they cannot get it out, it means they never expected it to happen. How can we trust them when they say the whole thing is safe if events they never expected can happen and close down the plant for months? We need to refocus on the fact that there is no way Sellafield can be safe. It is a danger to all of us and this needs to be reiterated.

Will the Leader ask the Minister for Justice, Equality and Law Reform to explain to this House the extraordinary refusal to publish the details of the decision-making structures and processes of the refugee appeals body? All of its appeal outcomes are secret. We do not know how individual members of that body make their decisions. We do not know whether some of them accept 75% of the appeals or others reject 95%. This is entirely unacceptable. One cannot have a quasi-judicial body making such fundamental decisions in secret. When other people do that type of thing we get extremely annoyed, and quite rightly. The Minister should discuss yet again with this House the whole issue of the secrecy involved in the process of deciding who may or may not live here and how decisions are taken to deport people from the country.

Mr. Dardis: I join with Senator Brian Hayes in sending our congratulations to Prime Minister Blair on his electoral victory. However, from an Irish viewpoint, there must be some puzzlement over the fact that a party gets more than a third of the popular vote and secures a comfortable overall majority in parliament.

Mr. Ryan: The Senator will have noted my silence on the matter.

Mr. Dardis: It gives us an opportunity to review events in Northern Ireland. Perhaps it would be a good time to debate events there, and I recommend that to the Leader. It was a matter of some disappointment that support for the so-called middle ground eroded in Northern Ireland and the more hardline margins increased their support. However, it was a matter of some satisfaction that the SDLP secured the seats it did and that its leader, Mr. Durkan, was elected. We commiserate with Mr. Trimble, of course, over the loss of his seat.

We frequently talk about "rip-off Ireland" and its impact. However, it has to be a matter of some congratulations that the Personal Injuries Assessment Board has now made awards which have been accepted. In one case the figure awarded was of the order of €60,000. The costs involved would have been €20,000 if the case had gone to court. Instead, they were of the order of €1,200 because it was processed by the PIAB. It vindicates the Government's decision and that of the then Minister for Enterprise, Trade and Employment, Deputy Harney, to establish the board. It is having a positive effect. I understand insurance costs are now down to the level they were several years ago. Therefore, there is some progress. It is not all bad news on that front.

Mr. Finucane: I support what Senator O'Toole said about the garda and what occurred in County Monaghan. We should all be concerned at what is happening in Ireland with criminal gangs, drugs, various types of lawlessness and murders happening on a frequent basis. Drugs shipments are

coming from eastern European countries, frequently with "lucky bags" of guns included. In the case of Limerick, in recent times a grenade was lobbed into a house. Fortunately, the occupants were in the rear of the house. What is going to happen next? It is worrying that children are growing up in this country in the way it is evolving. While the Criminal Assets Bureau is doing a good job, it is time the Minister for Justice, Equality and Law Reform placed all available resources at the disposal of the Garda. We have to weed out what is happening and it must concern all of us at this stage.

Labhrás Ó Murchú: Recently when the people of Iraq voted in elections and expressed their democratic preferences, we rightly lauded them. Likewise, we should laud people in Northern Ireland who voted and expressed their democratic choices. Although we may not like the results on one side or the other, the message for us is that we must listen carefully. Why do people vote for one side or another in an election in Northern Ireland unless there are severe and extreme concerns? The peace process has gone through a rough patch. A number of commentators say that was due to pre-election nerves, which may be part of the reason but, at this stage, we should comment in a more balanced and helpful way.

One difficulty arising from a vacuum is that people make comments or take up a position that will cause problems in achieving a solution later. That is always the difficulty but there are outstanding difficulties on every side, a number of which I have raised in the House. The Pat Finucane case is outstanding. We were all shocked by the new legislation brought through the British Parliament to ensure a fudge in that case. I refer to the Robert Hamill case. The RUC looked on as he was beaten to death and did not intervene. Rosemary Nelson who was a good legal representative was blown up by a bomb. We all need to step back a little and not always apportion blame only to one side. It might have been a good time to debate Northern Ireland issues prior to the elections but it would be helpful if we had such a debate in the coming weeks.

Mr. Quinn: Last week I asked for a debate on the Prison Service following the publication of the prison visiting committee report but since then I have discovered that the annual report of the Inspector of Prisons and Places of Detention has also been published. Both reports make interesting reading and it would be of immense benefit to us to hear the views of the Minister for Justice, Equality and Law Reform thereon. The Connect project, which was discontinued three years ago, had great advantages and one in three of those who attended the course in prison gained employment upon release, which was much better than previous initiatives. It would be useful if the Minister explained the reports to us and if we had the opportunity to comment on them.

Dr. Mansergh: I join Senator Brian Hayes in congratulating Tony Blair, whose presence is important to complete the peace process. I also pay tribute to the outgoing Secretary of State for Northern Ireland, Paul Murphy, both for what he did over the past two years and for the crucial role he played as Minister of State during the negotiations on the Good Friday Agreement. In congratulating all those who have won seats in the Northern Ireland election, we must recognise that David Trimble, who has resigned as leader of the UUP, and his party did a great deal of heavy lifting, as did the SDLP, which has survived to fight another day.

We welcome a delegation from Tasmania to the House today and most weeks we welcome a visiting delegation. It should be possible for Members to pay a return visit, for example, to Tasmania without being heavily criticised by the media, who do not like when we deal with constituency matters or when we travel abroad. One of the functions of parliamentarians is to be international representatives of their country. We all know comparative perspectives are enriching. Some people think we only won home rule 80 years ago but we won national independence and Ireland is one of the most globalised countries. We should reflect that, as should our media.

Senators: Hear, hear.

Mr. Coghlan: Despite the advance publicity, there was no white smoke following the earlier Cabinet meeting regarding the provision of a second terminal at Dublin Airport. In fact it may not have even been discussed. The Ministers I met told me their lips are sealed. I would like to put forward a suggestion and hear the Leader's comments on it. I have not heard it—

An Cathaoirleach: The Senator should put forward a suggestion and the Leader will give her views and her response.

Mr. Coghlan: In her own inimitable style, of course.

Mr. Finucane: What about Senator Morrissey?

Mr. Coghlan: Aer Rianta International has done a wonderful job at airports abroad. Perhaps it might be considered as it would be worthy in light of its experience and success.

I am glad the report of the Inspector of Prisons, Mr. Justice Dermot Kinlen, has been published. I asked about it at least six months ago. I do not know why it was delayed. I am sure the Leader will give us the opportunity to debate it in due course.

I would like to join with Senator Brian Hayes and other Senators who have asked for a debate on the North.

Mr. Dooley: I ask the Leader to organise at the earliest opportunity a debate on value for money in public spending. Anyone who saw the prog-

ramme on this subject last night must be concerned about the information presented to the public on how successive Governments and State agencies have spent taxpayers' money. However, the programme did not have the necessary balance, nor did it present an opportunity for the people involved to put forward their side of the story. It is incumbent on the Government and the relevant Ministers to lay out the facts on this issue. The Seanad would particularly welcome that, as it the House where one can have a more broad and open debate on such issues. It is important that this be done in order to allay the fears of the public and to set before us hard evidence to ensure this type of misinformation does not continue.

An Cathaoirleach: I call Senator Ross and would remind all Senators that there is a time limit and contributions should be brief.

Mr. Ross: I take up the suggestion that the Leader send a message of congratulations to Mr. Tony Blair but it should be more than a token message of congratulations. The Leader should take the opportunity to include a caveat on Sellafield. Senator Ryan raised this constant problem. We tend to throw shapes at this problem when a crisis arises or when there are difficulties or danger, but then we let it drop. It is a real issue in Anglo-Irish relations and this would be an opportune time for the Leader to express the concerns of this House. I also ask the Leader for a debate on that issue with the new Minister for the Environment, Heritage and Local Government.

The issue of Northern Ireland has been raised by several speakers today and all have stated how depressing the situation is. It is depressing to see the moderates in Northern Ireland pushed to one side but if we reflect on the positions of Mr. David Trimble and this House ten years ago we might see a bright side to the story. It would have been unthinkable ten, or perhaps 15, years ago that we would have deplored the defeat of Mr. Trimble. We would have thrown insults at him. It is a great credit to this House that we are doing this as we have moved a long way, and it is also a great credit to Mr. Trimble that he has made the sacrifice of which we approve.

Mr. Glynn: I ask the Leader to resume statements on regional transport policy, particularly as it refers to the rail network. We are all aware that much can be done to complement the vast improvements in the road network by improving the rail network. The Mullingar-Athlone rail line, the reopened Killucan station and several other examples nationally will greatly complement an improved rail and transport network. I call for a debate on the matter as soon as possible.

Mr. U. Burke: The findings of a survey among 220 general practitioners in Galway, Roscommon and Mayo are of serious concern. Of the general

practitioners surveyed, 60% wish to retire before the age of 65, one in five wishes to retire before 60 and corresponding numbers of female general practitioners want to retire before the age of 55. Among the reasons given for wishing to retire early were stress——

Mr. Dooley: Too much money.

Mr. U. Burke: ——ill health and changes from the practice of hospitalisation to primary care. If the results of the survey are an indication of the level of service delivery we can expect in the west of Ireland in future, it is high time to flag to the Minister for Health and Children the seriousness of the scenario we face. Of those surveyed, 54% work in single-doctor practices. We are aware of the serious consequences of a lack of after-hours availability of general practitioners in the west.

I reject Senator Dooley's assertion that general practitioners are overpaid and have too much money. It is a scurrilous accusation to make against people who are trying to deliver a service to people in need.

An Cathaoirleach: We cannot have a discussion across the floor. We will have a debate on the matter.

Mr. U. Burke: If that is the Senator's attitude, he should stand up and say so.

Mr. Dooley: I will debate it with the Senator in the Chamber.

Dr. Henry: I support Senator Quinn's call for a debate on the prisons report. It would be interesting to know if the Minister for Justice, Equality and Law Reform has decided eventually to make the position of Inspector of Prisons statutory as recommended quite some time ago. In his report, Mr. Justice Kinlen has gone so far as to say he has drafted a Bill which could be used by the Minister. We could debate the Bill in the House.

I support Senator Ulick Burke's comment on the survey of general practitioners. While it is very serious, the matter could be rectified very rapidly if we started to qualify enough doctors by making sufficient places available for medical students.

Mr. B. Hayes: Hear, hear.

Dr. Henry: The problem could be addressed immediately if the Minister for Education and Science were to make more places available in the autumn. The points level would drop and we would not be in the dreadful position of taking doctors from countries which do not have capacity of their own to fulfil our medical service needs. A recent appointment for an orthopaedic surgeon did not attract one EU candidate. Instead, all candidates were from non-EU countries in which they were needed far more. We are

too mean to ensure enough of our own doctors qualify.

Mr. Bannon: Since the current Minister for Health and Children took over the portfolio, conditions in the health service have gone from very bad to disastrous. I ask the Leader to invite the Minister for Health and Children to explain to the House the state of the ambulance service in the midlands. I was contacted yesterday by the daughter of a seriously ill and elderly lady for whom an ambulance could not be obtained to transport her from one hospital to another for specialist treatment. The case is indicative of the conditions which obtain in the midlands. Is the Leader aware that the Minister has instructed HSE officials to give out the names of private ambulance operators? The ambulance service is slowly being privatised, which is shameful and should not be allowed to happen.

An Cathaoirleach: The Senator can raise the matter on the Adjournment.

Mr. Bannon: I am very disappointed by Councillor Dooley's slur on the medical profession.

(Interruptions).

An Cathaoirleach: Senator Dooley is not a councillor. I ask that Senator Bannon desist from referring to Senators as councillors.

Mr. Bannon: The breakdown of law and order was raised by Senators Finucane and O'Toole.

An Cathaoirleach: The Senator should finish speaking because time is running out.

Mr. Dooley: The truth hurts.

Mr. Bannon: Criminal gangs target vulnerable areas on a nightly basis.

An Cathaoirleach: We will have a debate on that issue later.

Mr. Bannon: Yesterday morning someone was tied up during a robbery. A similar incident occurred in Cork last week. There is a problem with law and order in this country.

Mr. Dardis: Did anything good ever happen in Longford?

An Cathaoirleach: Order in the House please.

Mr. Bradford: I hope for the sake of Senator Dooley that Senator Bannon's remarks are not prophetic.

An Cathaoirleach: On the Order of Business please, Senator.

Mr. Bradford: We have been holding a mini-debate on Northern Ireland. I concur with

[Mr. Bradford.] requests from Senators for a full debate. It is time to devote a few hours to a debate of the election and other recent events. Some Members suggested that last week's results are somewhere between disappointing and disastrous. However, they are the results. Regardless of which politicians are elected to represent Northern Ireland at Westminster or in the Northern Ireland Assembly, the Good Friday Agreement has been signed on both sides of the Border. The political task is to ensure that the Agreement is completed. Those elected from the extremes of the spectrum will soon realise that, after the loud words die away, the Agreement is the only way forward. We must use a debate in this House and our words elsewhere to ensure that the Agreement is kept at the forefront of politics.

I also extend my congratulations to the Prime Minister, Mr. Blair, on his achievement. He has transformed his country and party. It is remarkable that he won a hat trick of elections. Whether he will be there for the next 12 months or three years, he has an important role to play on Northern Ireland, in which we should wish him well.

Ms Terry: This weekend, a school in Dublin 15 was broken into by thugs. Significant damage was caused which resulted in the closure of the school yesterday. While ongoing anti-social behaviour in many areas is in itself a major problem, additional difficulties arose in this instance when gardaí took two hours to respond to a call made after the break-in was discovered. This was because Blanchardstown gardaí were taken away from their duties to provide security for international visitors at Farmleigh House. I understand that these duties must be performed but this should not be at the expense of providing security and responding to calls in Dublin 15.

Mr. Finucane: Hear, hear.

Ms Terry: Once again, we find that resources to maintain law and order are lacking. The Minister for Justice, Equality and Law Reform needs to address this very serious problem. The Minister has been called upon many times today to come here to debate various issues. I wish to bring the plight of prison officers to his attention and to express my disgust that he refused to attend their conference.

Senators: Hear, hear.

An Cathaoirleach: That is a matter for the Minister.

Ms Terry: He is their boss and he must enter negotiations with them to resolve this issue.

Mr. Browne: I concur with previous speakers who requested a debate on Northern Ireland. The lesson to be learned from the election results is that we must question matters far more. All par-

ties agreeing with one another is not necessarily the way forward. The former Senator and former deputy leader of the SDLP, Mr. Séamus Mallon, spoke on the radio today and was quite critical of British Prime Minister, Mr. Tony Blair, and the Taoiseach.

We must question issues and adopt a mature attitude towards Northern Ireland. We should be confident enough to query matters at all times in the interests of finding a lasting solution to the problems in Northern Ireland. I hope we can move on and have genuine debates on Northern Ireland.

I agree with Senator Ulick Burke about the need for a debate on the number of GPs in the country. It is a major issue in Carlow, where an individual recently found it impossible to get an appointment to see a GP because he was not an existing patient. In many areas it is very difficult for people to become patients of a GP. The individual I referred to spent over a week attempting to get an appointment and only after contacting eight different doctors, did he finally succeed. This issue must be examined and I ask the Leader to invite the Minister for Health and Children to debate this in the House.

Could the Leader also ask the Minister for Justice, Equality and Law Reform to come to the House to answer questions on his café bar proposals? Does the Minister have a business model for such establishments and, if not, does he intend to produce one? He has spoken before the House on many issues but many people believe he has not thought this particular proposal through.

Mr. Dooley: Does the Senator wish to hear from the Minister or from an accountant?

Mr. Browne: I ask the Leader to ascertain from the Minister if he has a business model in mind.

Ms O'Rourke: Senator Brian Hayes, the Leader of the Opposition, sent his good wishes to the British Prime Minister. I will telephone Mr. Blair's office to pass on our congratulations. Senator Hayes argued that the task ahead is to ensure the complete conclusion of the peace process. He regretted the fact that Mr. David Trimble, who always sought to uphold the middle ground, lost his seat.

I dealt with Mr. Trimble during my involvement with the North-South bodies and he was a very fine contributor who had some excellent ideas. I always had time for him and I too am sorry he was not re-elected. There is no doubt he suffered because of various other matters outside of his control. However, he took his defeat graciously and in very good spirit.

Senator Brian Hayes also asked about the stand-off between the McBrearty family and the Minister for Justice, Equality and Law Reform. I suggest that is a matter for the Morris tribunal.

Senator O'Toole expressed satisfaction that a review of the Marino Institute of Education is under way. I am also pleased with that develop-

ment. The Senator went on to express the view that decommissioning will not happen. Mr. Trimble referred to decommissioning as one of the reasons the ground beneath him shifted so much.

Senator O'Toole also raised the matter of the garda in Carrickmacross who was thrown off a bridge. We will debate law and order issues tomorrow and that matter can be addressed then.

Senator Ryan rejected the use of the word "alleged" in reference to the murder of Robert McCartney by the IRA. I note the word only appeared in reports this morning. The Senator asserted emphatically that Robert McCartney was murdered by the IRA. I agree with Senator Ryan that we could usefully debate Sellafield in the House.

Like Senator Ryan, I have requested information from the Refugee Appeals Tribunal on numerous occasions regarding the reasons for its decisions. The tribunal does not issue such information, but it would be useful to have an explanation as to how it operates.

Senator Dardis referred to the British Prime Minister, Mr. Blair, and to Northern Ireland. He also raised the matter of the Personal Injuries Assessment Board which has published its determinations on compensation rates, which are much lower than they were in the past. All Members welcome that development.

Senator Finucane asked me to invite the Minister for Justice, Equality and Law Reform to the House to debate law and order issues.

Senator Ó Murchú referred to the turnout in the elections in Northern Ireland. It is true that many issues remain unresolved, for example, the cases of Pat Finucane, Robert Hamill and Rosemary Nelson. The Senator called for a full debate on such issues.

Senator Quinn requested a debate on the report of the Inspector of Prisons and places of detention and on the discontinuation of the Connect project. Senator Mansergh agreed with Senator Brian Hayes's remarks on the British Prime Minister, Mr. Tony Blair. He also wishes the House to send its appreciation to the former Secretary of State for Northern Ireland, Mr. Paul Murphy, who was a person who did Ireland proud. Mr. David Trimble's UUP and the SDLP bore the heat of the day when the going was tough. Senator Mansergh also joined in welcoming the Tasmanian delegation and said we should be able to adopt an international perspective without being snapped at our ankles anytime we ventured outside Leinster House.

Senator Coghlan referred to Aer Rianta International but I missed something of what he said. I think it was to the effect that the company might take over the hotels.

Mr. Coghlan: No.

Ms O'Rourke: He did not mention hotels?

Mr. Coghlan: It was about the second terminal.

Ms O'Rourke: The terminal issue.

Mr. B. Hayes: It is a terminal issue.

Ms O'Rourke: Yes, indeed. The Senator also wanted the House to debate Mr. Dermot Kinlen's report on prisons.

Senator Dooley referred to the television programme on value for money in public spending and thought the facts were not balanced. Each module on the programme ended with the presenters saying they had requested someone to comment but they would not appear, so it was difficult to achieve a balance in that respect.

Senator Ross wanted a message to be sent by the House to Mr. Tony Blair embodying a statement on Sellafield. I may send two separate letters, however. The Senator also wants the Minister for the Environment, Heritage and Local Government to attend the House. In addition, he said that Mr. David Trimble's work was a credit to Northern Ireland and I think we would all share that opinion.

Senator Glynn sought a resumed debate on regional transport policy. Senator Ulick Burke noted that general practitioners want to retire early. They do in three western counties, but I will not go into the other stray remarks.

Mr. Dardis: We are the only group in the country that does not want to retire early.

Ms O'Rourke: The Minister for Social and Family Affairs, Deputy Brennan, will not like the GPs going ahead of their time.

Senator Henry asked for a debate on the prison report quite some time ago and she did so again today. She said we should ensure there will be extra places for medical students this autumn. I can never understand why we limit the number of medical students when there is a huge shortage of doctors. As the Senator knows, however, foreign medical students pay full fees.

Senator Bannon said the situation in the health sector is very bad, including the ambulance service. I expect that if one was very ill, one would not care whether one was taken to hospital in a public or private ambulance, as long as one got there.

Mr. Bannon: There are no ambulances available.

Ms O'Rourke: The Senator said people went in private ones. I share his concern about Ballymahon where a heinous crime was committed in the local post office. Members of a family were tied up and bundled into rooms. Postmen were treated in the same way. Post offices at Ballymahon, Glasson and Horseleap were targeted in one fell swoop. It is very disturbing.

Senator Bradford sought a full debate on Northern Ireland issues, including the Good Friday Agreement. Senator Terry said it took gardai two hours to respond when a school was broken into in Dublin 15 because they had gone

[Ms O'Rourke.]

to police an event at Farmleigh. I am not aware of the situation concerning the deployment of gardaí, however. In addition, the Senator bemoaned the fact that the Minister for Justice, Equality and Law Reform did not attend the prison officers' conference. However, the Minister is entitled to go wherever he wants. He chose not to go, although he has had many discussions with the prison officers and perhaps he has had enough of it. However, the Minister attends this House whenever we want him to.

Senator Browne said we need to question policy on Northern Ireland, rather than accepting it all the time. He said the Minister for Justice, Equality and Law Reform should attend the House to debate law and order issues, but I presume he will be here tomorrow night.

Mr. Browne: I sought a business model for the Minister's café bar proposals.

Ms O'Rourke: The Senator wanted to see a business model but it is up to the would-be proprietors of such establishments to produce a business model for them.

Mr. Browne: The Minister has not thought it through.

Ms O'Rourke: Good Lord.

Order of Business agreed to.

Sea Pollution (Hazardous Substances) (Compensation) Bill 2000: Second Stage.

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

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher): A Chathaoirlegh, tá athas orm deis a bheith agam an Bille seo a chur faoi bhráid an tSeanaid inniu. The Bill is essentially technical in nature and gives effect in Irish law to the International Convention on Liability and Compensation for Damage in connection with the carriage of Hazardous and Noxious Substances by Sea 1996 — the HNS convention. The Bill also gives effect to the 1996 Protocol to the International Convention on Limitation of Liability for Maritime Claims 1976 — LLMC 1976.

The main objective of the HNS convention is to provide adequate, prompt and effective compensation for loss or damage arising in connection with the carriage of hazardous and noxious waste on sea-going ships. The convention complements arrangements which have been in place since 1969 regarding civil liability and compensation with regard to oil pollution. The Oil Pollution of the Sea (Civil Liability and Compensation) Acts 1988 to 2003 give effect to those arrangements in Irish law.

The HNS convention is to apply to loss of life or personal injury, loss of or damage to property,

environmental damage and costs of preventative measures. The LLMC 1976 establishes the basis on which claims may be made arising out of the various risks accompanying maritime transport. It also establishes how they may be prosecuted and sets maximum aggregate limits depending on the tonnage of vessel in question for claims arising from any one incident.

The Merchant Shipping (Liability of Ship-owners and Others) Act 1996 gives effect to LLMC 1976 in Irish law. The 1996 hazardous and noxious substances conference considered, however, that these limits would not be sufficient to provide adequate compensation for claims likely to arise under the new HNS convention and contemporaneously agreed the proposed protocol which would increase the limits.

The effect of the Bill is to require Irish vessels everywhere and non-Irish vessels within a 200 mile nautical limit — in accordance with the terms of the HNS convention — which are carrying hazardous and noxious substances, as defined, to carry compulsory insurance for the amount they may be liable to pay in compensation for any loss and damage caused by those substances. These are listed in the convention and include such materials as liquefied petroleum gas, liquefied natural gas, oils and fats, combustible chemicals and solvents but exclude radioactive materials which are covered under a separate convention. The deliberate discharge of any of these materials into the sea is already a criminal offence under the Sea Pollution Acts 1991 to 1999. The Bill provides for enforcement by, among others, the Garda, Defence Forces and harbour masters.

Penalties for non-compliance with the compulsory insurance requirements are twofold. On summary conviction, the penalty is a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or on conviction on indictment, the penalty is a fine not exceeding €1,270,000 or imprisonment for a term not exceeding five years, or both. These penalties are similar to those set out in sea pollution legislation.

The Bill extends Irish civil law jurisdiction to the matters covered by the convention and protocol so that parties here, including the State, can invoke the convention in Irish courts in claiming compensation under it in the first instance from the shipowner and, in the final analysis, from an international fund established under the convention and funded by a levy on imports of the materials in question into states which are party to the convention.

A shipowner may limit his or her liability to the amount prescribed in the convention and fire-proof his or her vessel against arrest by lodging security for that amount with the court. This amount varies according to the tonnage of the vessel but is in any event limited to 100 million standard drawing rights which is equivalent to approximately €120 million. Standard drawing rights is an international unit of currency and up

to 250 million SDR compensation is available in all under the proposed arrangements in respect of any one incident.

The two-tier compensation arrangement mirrors that which applies to oil pollution. As with oil, contributions to the international fund are to be made by those who import the substances in question. On the basis of available information it is not expected that contributions from Irish importers to the fund will be significant.

The definitions and descriptions set out in the convention were agreed and adopted following consideration by experts at the International Maritime Organisation. Senators will note that for ease of reference a copy of the HNS convention is set out in Schedule 1 and the LLMC in Schedule 2 of the Bill. The Bill, however, must be viewed in the context of the legislative and other measures which have been introduced over the past 15 years or thereabouts.

The Department of Communications, Marine and Natural Resources has adopted as a strategic goal the protection and preservation of the marine environment. Central to this strategy is the protection of the overall marine ecosystem, maintenance of the highest standards in the quality of our marine waters, prevention of pollution at sea around our coasts and the provision of a rapid response to pollution incidents so as to minimise damage.

The Government is anxious that our legislation complies with accepted European Union and international standards while addressing specific Irish concerns. Accordingly, it and the Department recognise that action at EU and international level is an essential element of any strategy for the protection of the marine environment and to that end they continue to participate fully in the activities of relevant organisations, including the International Maritime Organisation, the OSPAR Commission and the Bonn convention.

Legislative and other measures which have been introduced to protect the marine environment are subject to continuing review at national, EU and international levels with a view to improving the arrangements in place. This process was given added urgency following the *Erika* incident off the coast of France in December 1999 and further accelerated following the *Prestige* disaster off the coast of Spain in November 2002.

Measures have been agreed or are under consideration on the regulation of ship classification societies, the accelerated phasing-out of single-hull oil tankers, the strengthening of port state control measures, ship reporting arrangements, sanctions on ship-source pollution and increased compensation levels for victims of pollution by oil tankers.

In August 2002, the European Maritime Safety Agency was established by regulation to ensure a high, uniform and effective level of maritime safety and prevention of ships within the EU. The agency will enable the Commission to offer the full range of professional services needed to dis-

charge its duties in this regard. All EU member states are represented on the board of the agency. In 2003, Belgium, France, Ireland, Portugal, Spain and the United Kingdom presented to the International Maritime Organisation a joint request to designate certain maritime areas as particularly sensitive sea areas, PSSAs, to strengthen its protection of particularly vulnerable areas. The limit of the proposed PSSAs coincides with the 15th meridian, the Porcupine Bank, including parts of the special waters of north-west European zone as defined under the MARPOL Convention, the English Channel and coastal waters and certain parts of pollution response areas and exclusive economic zones along the Spanish, French and Portuguese coasts. The aim of the exercise is to protect our marine environment and coastline from oil spills by discouraging vessels from entering into the PSSA.

The PSSA was approved by the International Maritime Organisation in October 2004. A reporting system for tankers was accepted by the International Maritime Organisation's navigation committee and was formally adopted as a legal mandatory reporting system in December 2004. The system enters into force on 1 July 2005. Legislation has been introduced to keep abreast of these many developments such as the Oil Pollution of the Sea (Civil Liability and Compensation) Acts 1988 to 2003, giving effect to international conventions for civil liability and compensation. The latest of these in 2003 increased almost six-fold the amount of compensation available to victims. It also enabled the State to become a party to the protocol which established a supplementary fund. Ireland was one of eight States that enabled the protocol enter into force in March 2005.

The Sea Pollution Act 1991 enabled Ireland to ratify MARPOL 73/78, the International Convention for the Prevention of Marine Pollution from Ships. The Act also gives effect in the State to the protocol relating to intervention on the high seas in cases of pollution by substances other than oil. Regulations to give effect to MARPOL were introduced in 1994 and updated in 1997, 2002 and 2003. The Sea Pollution (Amendment) Act 1999 gives effect to the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990. The Act provides for the preparation of oil pollution emergency plans by harbour authorities, operators of offshore installations, oil handling facilities and for their submission to the Minister for approval. It also provides that the Minister may direct a local authority to prepare and submit such a plan for approval. The Dumping at Sea Act 1996 gives effect to the OSPAR Convention. The Act also specifically prohibits the dumping of certain materials at sea.

In December 2000, the European Union adopted a directive on port reception facilities for ship-generated waste and cargo residues. Its purpose is to improve the availability and use of port reception facilities for such waste. Regulations

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were introduced in March 2003, as required by the EU, to give effect to the directive in Irish law. The Department is liaising with port authorities on its implementation. The European Communities (Vessel Traffic Monitoring and Information System) Regulations 2004 (S.I. No. 81 of 2004) gives effect to Directive 2002/59/EC in that regard.

The Sea Pollution (Miscellaneous Provisions) Bill 2003, also before the Oireachtas, enables the State to give effect to several internationally agreed instruments namely, a protocol to OPRC adopted at International Maritime Organisation in March 2000 and the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001. This convention was adopted to build on the instruments in place for the pollution from oil tankers and hazardous substances. Other instruments include Annexe VI to MARPOL (Air Pollution from Ships) and the International Convention on the Control of Harmful Anti-Fouling Systems on Ships 2001.

The Convention for the Protection of the Marine Environment of the North East Atlantic, OSPAR, came into force internationally in March 1998 following ratification by all contracting parties. OSPAR deals with different aspects of marine pollution ranging from radioactive substances to offshore industries to biodiversity. The OSPAR Commission meets annually and meetings of committees of expert groups are held as required regarding the different aspects of work. OSPAR's work is of interest to several Government Departments and agencies. The Department of Communications, Marine and Natural Resources, with the Department of the Environment, Heritage and Local Government, are joint lead Departments for the purposes of OSPAR. Ireland will host the OSPAR Commission meeting in Malahide, County Dublin, next month.

OSPAR carried out a major assessment of the status of the marine environment of the north-east Atlantic Ocean and published its findings in December 2000. The quality status report describes the main impact of human activities on the marine environment and evaluates the effectiveness of measures already implemented to tackle them. The publication of the report follows assessments carried out at national and regional levels in the previous two years. For this purpose, the OSPAR area was divided into five regions. Ireland and the UK were responsible for preparing an assessment for region III, known as the Celtic Sea region. In the first instance, Ireland prepared its own quality status report. This involved several Departments and agencies and was published by the Marine Institute in 1999. The second stage involved a joint UK-Ireland quality status report for the region. The final stage of the process involved fusion of all five regional reports into a single quality status report for the entire area.

The assessment found that the Irish marine environment was generally in a healthy state but that there was no room for complacency. Particular attention must be paid to the scale of coastal development, pollution from rivers, sewage disposal and the atmosphere. It is proposed that the next quality status report be completed by 2010.

The transport of nuclear materials by sea is a matter of concern to the Department of Communications, Marine and Natural Resources. Senators will be aware that Government policy is to oppose the Sellafield MOX facility. Accordingly, the Department has co-operated with other Departments and agencies on the legal proceedings taken in recent years against the facility. However, while it remains operational, it is the Department's policy to ensure maritime transport is conducted in accordance with international rules and best available practice for guaranteeing safety at sea and prevention of pollution of the marine environment. My Department's main concern is to ensure that the vessels concerned do not pass through waters under Ireland's jurisdiction, and the UK authorities have given assurances that they will not. The UK authorities have also stressed that voyages by such vessels are kept to a minimum and are already limited to one or two per year. The Department's other concern is to ensure that the highest possible levels of safety are applied both in terms of the vessels employed and the operational requirements applied to them.

Bilateral arrangements are in place with both the UK and France that Ireland will be notified in advance of shipment dates, the nature of cargoes and all other relevant details. We have also been advised that none of these routes involves passage through the territorial waters of any state and that if such passage were considered necessary, the state or states involved would be notified in advance. I am pleased to confirm that to date, vessels did not enter waters under Ireland's jurisdiction.

The report of the task force on the dumping of radioactive materials in the maritime area was published in January 2000. Its key conclusion was that the risk to human health and to marine life from past radioactive dumping is extremely low and does not constitute a health hazard. The Government shares the concerns of many members of the public in this regard and is anxious that they should be allayed as far as possible. The Radiological Protection Institute of Ireland, together with the universities, is continuing with monitoring and other work in this sphere.

Returning to the Bill now before us, a diplomatic conference convened by the IMO adopted the HNS convention in May 1996. The convention has not yet entered into force and will not do so until 18 months after both of the following criteria have been fulfilled: At least 12 states must have expressed their consent to be bound by the convention, through ratification or accession.

This must include four states, each with a registered fleet of at least 2 million units of gross tonnage — more than five times the size of the Irish fleet; and contributors in the states that have ratified or acceded to the convention must, between them, receive a minimum of 40 million tonnes of contributing cargo covered by the general account.

Periodically, informal meetings have been held to discuss the implementation of the HNS convention. A workshop for interested parties is to be held in London next month. States attending these meetings agreed that it would be desirable to co-ordinate their ratification of the convention. EU member states have been urged to prepare the necessary legislation in this regard as soon as possible. I am committed to complying with this request, not least to ensure, in view of the importance of our marine resource, that Ireland is in a position to benefit from the terms of the convention as soon as it comes into force.

As has been emphasised in the recent studies to which I have referred, there is no room for complacency as far as the protection of the marine environment is concerned. We must continue to build on our achievements in order to get the full benefit of the measures we have introduced. The Bill now before us is an important part of the process of advancement undertaken at national, EU and international level in order to protect the quality of the marine environment.

Tá fhios agam go bhfuil suim ag gach Seanadóir i gcúrsaí comhshaoil mara. Mar sin, molaim an Bille seo go láidir daoibh go léir.

Mr. Coghlan: I welcome the Minister of State and thank him for his introductory remarks.

This Bill has been bandied about for more than four years, which is not good enough. The Bill should have been on the Statute Book before now.

The Bill transposes a number of international commitments into Irish law and highlights the Government's contempt for keeping our promises to our neighbours. I note the Minister of State said that 12 states must ratify the convention before it can be adopted. He mentioned a meeting on the matter to be held in London. Accordingly, we are not the only state to have dishonoured our word to our neighbours in this regard, and I look forward to a successful outcome to the meeting in London.

The Bill gives effect to the 1996 International Convention on Liability and Compensation for Damage Associated with the Carriage of Hazardous and Noxious Substances by Sea, more easily referred to as the HNS convention. The Bill also allows the taking of effect of the 1996 protocol to the 1976 International Convention on Limitation of Liability for Maritime Claims, LLMC. The HNS convention complements existing arrangements in place since 1969 regarding civil liability and compensation with regard to oil pollution. The Oil Pollution of the Sea Acts 1988 to 1998 gave effect in Irish law to those international

arrangements whereby limits were established for ship owners' liability and an international compensation fund was set up to pay the costs of damages caused by oil pollution from bulk tankers.

The basic terms were that the ship owner would pay up to a certain limit, depending on the tonnage of the ship concerned, and the balance would be met by the compensation fund made up from the contributions from importers of substantial quantities of oil. The HNS convention we are seeking to put into Irish law will do roughly the same for hazardous and noxious substances being transported by sea, as the Oil Pollution of the Sea Bill has achieved in the past.

At first glance, this looks like long and complicated legislation, but much of the Bill's content is taken up by the printing of the international convention itself. Only the first 18 pages of the Bill deal with implementation under Irish law. Ireland is an island nation heavily dependent on trade for its existence. Many of the bulk imports and exports of the country are transported by sea. This trade includes hazardous and noxious substances. In the HNS convention, as outlined, hazardous and noxious substances are defined under clear headings, for example, oil carried in bulk, noxious liquid substances, dangerous liquids, liquified gases, liquid substances with a flash point exceeding 600° Celsius, solid bulk materials possessing chemical hazards, residues from previously carried substances, etc. For those concerned about radioactive materials, they are covered under the Sea Pollution Acts 1991 to 1999, as the Minister pointed out.

Let us be clear about the issue of hazardous and noxious substances. Ireland has responsibility for 240,000 square miles of sea, roughly 17% of European waters. We are responsible for more waters than any other European country. We are an island close to commercial traffic and shipping lanes. Irish waters are used on a daily basis by merchant shipping, the majority of which merely passes through. Along with ships coming and going from Irish ports, this makes up a significant number of vessels, and the potential risk of spillage or accident is always there.

Although many people do not realise it, we are a maritime nation. The sea around us is the most valuable resource we have. This Bill is an opportunity to give some protection to that resource by putting in place a legislative framework to pay the necessary compensation should an incident occur involving loss of life or personal injury, loss or damage to property or environmental damage, which involve significant costs. Under the legislation, the level of compensation to be paid can be decided by conventional action through the High Court only.

The amount of compensation and the arrangements for payment will be as follows. The ship owner will have some liability which will depend on the size of his or her vessel. A maximum figure of approximately €140 million can be paid by the ship owner's insurance cover. The remainder of

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the compensation, if required, will come from a compensation fund set up internationally and financed by the annual contributions from individual companies trading in materials covered under the HNS convention.

Irish companies will not have to pay substantial amounts although they may have to make some contribution towards the fund. This fund can be called upon to pay up to a maximum of €350 million, a substantial sum. In some tragic cases no sum could make up for the environmental damage caused by certain spillages.

There are real concerns regarding enforcement of the legislation. It is right that the legislation gives Irish authorities the ability to stop and board vessels if there is reasonable concern. The Minister will have the right to appoint suitable inspectors to do that job. At present, those inspectors are the Naval Service and, if a ship is in port, the Garda and harbour masters could be involved. There is concern about the capacity of a fleet of eight naval vessels, only four or five of which are at sea at any one time, to do the work required for this as well as the work that must be done in regard to fisheries, illegal drug trafficking and basic sea safety legislation.

Fine Gael has welcomed the severity of fines in regard to enforcement of the law once inspection has taken place. We also welcome the fact that ship owners can be imprisoned for up to ten years when their ships do not comply with basic legislation such as that all ships carrying hazardous and noxious substances must have a compulsory insurance certificate, must keep up-to-date logs, must provide samples of the substances they carry and so forth.

This legislation is necessary for practical reasons. The liability for the shipping of noxious and hazardous substances needs to be limited because insurance would not be affordable if it was not for the creation of an international fund to pay the potentially high compensation. The commercial viability of shipping also needs to be balanced with environmental protection. That is important and it is in Ireland's interest that we ensure this legislation is put in place not just in this country but in other European countries. Perhaps that will flow from the London meeting to which the Minister referred.

The Minister must do what he can to encourage other European countries to put this legislation into their domestic legal structures. This convention cannot come into practice until, as the Minister pointed out, at least 12 countries have signed up to it. Europe should be leading the way, as it has done with other international environmental concerns. I appeal to the Minister of State to raise this issue at European meetings to ensure other countries do what we have done in terms of implementing the convention in domestic law.

In the marine sector, we should also make life as difficult as possible when shipments of nuclear waste come through the Irish Sea. The term "nuclear fuel highway" is one which will alarm

many Irish people who are concerned about the nuclear issue. We need to do everything we can to frustrate and make life as difficult as possible for those who promote the idea of the Irish Sea becoming a highway for nuclear fuel, even if it is only on rare occasions. Recently, we witnessed how dangerous Sellafield is and I subscribe to everything the Minister said in regard to our continued opposition to it.

There is an irony in the fact that the pellets containing the radioactive material which were transported through the Irish Sea had been sent to Japan and then sent back. This means they had traversed the Irish Sea needlessly on two occasions. The irony of that should not be lost on the Government and legislators. The Minister should do what he can on this issue and we will support him where possible. We will also be critical where we believe he is not applying sufficient political pressure.

The sea surrounding our island is the greatest resource we have. It is not utilised enough, although its use is increasing. Resources under and in the sea can be used to much greater benefit but they must also be treasured and protected. This legislation is a small step towards doing that. For that reason I welcome it and look forward to discussing it in detail on Committee Stage.

Mr. Kenneally: I welcome this Bill and commend the Minister for bringing it forward. The Bill extends protections for Ireland as a maritime nation and imposes strict requirements on maritime carriers, who were not subject to such rigorous attention in the past. This Bill is legal and technical in nature and, while it is designed to give wide ranging protection to our people and to the environment, it has little other impact on the public at large.

The Bill is designed to give effect to the International Convention on Liability and Compensation for Damage in connection with the carriage of Hazardous and Noxious Substances by Sea 1996 — the HNS convention — and to give effect to the 1996 Protocol to the International Convention on Limitation of Liability for Maritime Claims, 1976 — LLMC 1976. The HNS convention applies to loss of life or personal injury, loss of or damage to property, environmental damage and the cost of preventive measures arising from incidents involving a range of substances that would be hazardous or noxious to people or the environment.

The HNS convention was adopted in May 1996 but has not yet entered into force. It will not enter into force until 18 months after, *inter alia*, 12 states express their consent, including four with a registered fleet of at least 2 million units of gross tonnage. Whatever about Ireland being counted among the 12, it certainly will not pass the threshold of 2 million tonnes of shipping and it will be left to those countries with large fleets to bring this measure into force. Materials covered in this Bill are explosive in nature such as liquified gases,

corrosive acids, volatile chemicals, aromatic liquids and certain solid materials which generate dangerous gases when carried in bulk.

I note that radioactive materials are excluded from this Bill and it is not difficult to understand why. Obviously such materials would have a far more devastating and longer lasting effect than the vast majority of other materials being carried and such liability would not be relevant to this Bill. While on the subject of radioactive materials, can the Minister of State say what progress, if any, has been made in regard to the transport of radioactive materials between Far Eastern countries and the reprocessing plant in Britain?

Members will recall that there was grave disquiet and strong objections on the various occasions when such waste was carried in the not too distant past. I realise that these shipments are not allowed to travel through our waters but radioactive materials, or any leakage therefrom, or, God forbid, a nuclear accident or terrorist attack, would not take account of political borders and could devastate us as well as other countries in their path should there be a serious incident. I do not wish to labour this point but it is a consistent problem and a running sore for this part of Europe and now might be a good time to raise the matter again.

Often progress on such problems is best made outside the glare of the spotlight and not at a time when such materials are on the high seas. Has the Minister made any headway in convincing the transporting or recipient countries that such a practice is inimical to our interests and the interests of humankind generally? We can do without the specific avoidable risk such shipments generate. I urge the Minister to use every avenue open to him to have this practice stopped and to galvanise the Government once more to put every pressure on the new British Government to wind down the activities of the Sellafield plant.

This Bill contains many of the principles contained in previous maritime Acts. We should seek to include all those safeguards in this measure as well. Compensation payment arrangements are along the same lines as those currently applicable for oil pollution damage. It is proposed that an international compensation fund would be set up, which would be financed by the companies trading in substantial amounts of the materials covered by the convention. The fund would pay any compensation necessary over and above that for which the ship owner is liable.

This is sensible as the amounts involved in loss of life, loss of earnings, illness, clean up and a myriad of other costs might well go beyond the capacity of any single company to underwrite. We have seen the massive clean up bills generated by various oil tanker disasters, even though oil is a substance that is reasonably stable and reasonably safe to handle given the most basic safeguards. The substances which this Bill purports to deal with may be poisonous, explosive or corrosive.

In these enlightened days, when a high degree of protection is, thankfully, demanded for workers, the costs of clean up escalate, as the level of risk rises. The Bill will ensure this country is fully aligned with international standards of protection against damage in connection with the carriage of such substances. This measure will also require Irish vessels to carry compulsory insurance for an amount they would be liable to pay in compensation for loss and damage caused by dangerous substances. It is not expected that many Irish companies would come within the ambit of the Bill, but it is vitally important to have it on our Statute Book and for us to be part of the convention which regulates the compensation factor for incidents involving dangerous and noxious substances. There is little point in locking the stable door when the horse has bolted. Now is the time to make adequate provision for the future.

The Bill also provides for enforcement by the Garda, the Defence Forces and harbour masters. It is interesting that harbour masters should be included in this measure. The Bill appears to provide a definition of that office. Perhaps the Minister of State will indicate if this is the case. If they are to be specifically involved, why was there no reference to them in the Maritime Safety Bill, of which Committee and Report Stages were debated in the House in recent weeks?

I have spoken previously about the devastation of the French coast by the sinking of several oil tankers which spewed out thousands of tonnes of highly carcinogenic oil, thereby wrecking the livelihood of the local population, depriving them of an idyllic lifestyle in some of the most beautiful coastal regions of France and subjecting them to unnecessary and avoidable threats to their health and well-being.

The Bill does not specifically cover oil spillages but crude oil could certainly be termed a noxious substance and oil tanker wreckages are the most common form of environmental disaster from such substances. There are many well known, well documented and disastrous wrecks from which to choose. In 1978 the *Amoco Cadiz* spilled 233,000 tonnes of oil into the ocean. The *Prestige* was lost in November 2002 off the coast of Spain and the *Erika* was lost off the Brittany coast in 1999. In the case of the *Prestige*, a report prepared by Penn State University suggested that 14,000 metric tonnes of oil were recovered from the tanker using the shuttle-bag system, and that between 16,000 and 23,000 tonnes of oil are still in the ship.

If disasters can happen with oil, they can equally happen with other noxious and dangerous substances. Much of the trouble with oil was due to the fact that the majority of tankers were single-hulled. We have no guarantee of what kind of ships will be used to transport this and other dangerous materials.

The *Prestige* is of particular interest according to the report because it sank in approximately 12,000 feet of water, deeper than most tanker

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wrecks, making full recovery of the oil impossible. Even though the tanker has, for the most part, stopped leaking oil, it will eventually leak again. The remaining 30% of the oil comprises materials which are not easily degradable. Normally, salt water would rust through the hull in about 23 years, but in this case, a bacteria that devours iron is present and it will take only four years before the wreck starts to leak again which suggests that we could be in trouble as early as next year.

In some respects, an oil spill is easier to deal with than other hazardous substances. Due to its weight there is a chance leaked oil will fall to the bottom of the ocean where it would solidify in the extreme cold. Many other chemicals and hazardous substances which are not as heavy or as cloying as oil would dissipate in sea water with disastrous results. They may not even be readily visible or otherwise detectable. The ocean is a big and lonely place when one is searching for relatively small objects or spills.

All of these cases and many others to which I have not referred serve to demonstrate that tanker safety and pollution prevention must be further improved. The International Maritime Organisation is primarily concerned with the safety of shipping and the prevention of marine pollution. The organisation has also introduced regulations covering liability and compensation for damage such as pollution caused by ships. In March 2001, the International Maritime Organisation finalised a new convention to apply the principles of the shipping liabilities convention to all types of commercial shipping such as bulk carriers and container ships. In the debate on the Oil Pollution of the Sea (Civil Liability and Compensation) (Amendment) Act 2003, I stated that in its communication following the *Prestige* accident, the European Commission had repeated that the total level of compensation available should be augmented to €1 billion. Furthermore, in the *Prestige* communication, the Commission reiterated the need to introduce keener sanctions against any person, including legal persons, responsible for an incident of pollution through grossly negligent behaviour.

The Commission also stated its intention to amend the international oil pollution compensation regime so that the right of a ship owner to limit the financial liability would be abolished. Nothing which I have heard or read since leads me to believe that this necessary change has been implemented. The right to compensation is an important point. An example of this is the loss of income suffered by tourist resorts due to oil pollution, thereby resulting in an economic loss to traders and hoteliers.

One of the most recent disasters of this nature in European waters was caused by the sinking of the oil tanker *Erika* on Sunday, 12 December 1999. It was carrying 26,000 tonnes of fuel oil when it broke in two 60 miles off the beautiful Breton coast of France. At the time a coastguard

official stated that there was a danger of pollution but he could not say how serious would be the impending environmental disaster that eventually struck 250 miles of French coastline. The seriousness of the matter soon became apparent. That environmental and economic disaster had wide-ranging consequences, not just for the environment, bird and marine life, but also for the people of that part of Brittany and the coast south of there who relied on the sea or tourism for their living. The spill caused havoc along the mid-western coast of France in the vicinity of one of its busiest seaside resorts, La Baule, which catered for hundreds of thousands of French and international tourists each year. In addition to the trade of this major resort being seriously disrupted and the significant threat to its lucrative tourism trade, the various types of fishing industry on the coast was also devastated.

I do not wish to focus exclusively on the damage caused by oil spillages but this is a substance with which we are all familiar. We are aware of its dangers and, relatively speaking, the ease with which we can deal with it. Not all substances are as visible or easily identifiable. Losses to the maritime industry have been a grim reality for the many Bretons who relied on the fruits of the sea to earn a living. The stretch of coast devastated by the *Erika* disaster was home to many oyster beds that were contaminated with oil and, as a result, many oyster farmers went out of business. So too did the freelance fishermen, who relied on collecting cockles, mussels and clams at low tide, which was a precarious living at the best of times. The sea salt industry, which was situated on the marshy land just inside the coast was also threatened by the polluted water. However, the greatest impact has been on sea birds. Over 20 times more were killed following the sinking of the *Erika* than when the *Amoco Cadiz* sank in 1978 spilling 233,000 tonnes of oil. This was due to the fact that many more birds were wintering in the region at the time of the break-up of the *Erika*.

Concern over oil pollution resulted in reduced bookings to the coastal resorts, which relied heavily on the seasonal tourist trade. The French Government mounted a major clean-up operation along the coast, but despite the investment of significant resources, a fear of the carcinogenic effects of the deadly oil remained for some time. One constituent of mine who is familiar with the area told me of the terrible effect the disaster has had on the region. A favourite pastime of the local population at low tide was to walk out along the shore to collect wild oysters from the rich beds there. They brought full buckets of oysters back to their village which was a natural bonus for those lucky enough to live in the area. The *Erika* disaster put paid to all of that.

We know from bitter experience the physical damage and economic hardship that can be caused by pollutants in the sea. We must close every loophole and provide a specific compensation requirement for other potential hazards.

The legislation is timely and beneficial. I thank the Minister of State and commend the Bill to the Seanad.

Ms O'Meara: I welcome the Minister of State, Deputy Gallagher, to debate what he described as a technical Bill but which is also important legislation. We have no reason to oppose it. It falls in line with the commitments we have made in the context of our participation in the European Union and in other bodies and agencies and responsibilities consequent on such participation. There is also the need, as the Minister of State has pointed out, for a properly protected marine environment, a matter of considerable importance to this island.

Marine pollution is of the utmost seriousness, whether as a result of an accident or negligence. Senator Kenneally has outlined with erudition the effects on French coastal communities, and the Breton area in particular, of the impact of the 1999 sea disaster there. Clearly that type of incident is our biggest concern and fear. There is also the fact that an oil tanker might go aground in heavy weather, in what may only be described as a genuine accident. Such incidents happen.

I am concerned about sanctions where negligence is involved and I ask the Minister of State to examine the whole issue of prevention. The majority of companies that sail the sea do so within the confines of the law and take extreme care that they live up to their responsibilities, particularly as regards pollution. However, it is our role as legislators and that of governments, acting individually and together, to ensure that every possible preventative measure is taken against marine accidents and damage to the environment.

This legislation is not specifically about prevention although prevention is an extremely important part of the dynamic that is needed in this whole area. The second prerequisite is enforcement. Before I elaborate on this I wish to pose a question on compensation, which is at the core of the legislation. The proposed sum of €1 million is not a great amount. Perhaps the Minister of State could elaborate on this. I have looked through the Bill and I am unclear on how the compensation element will work. If there is an incident affecting part of the coastal area, say at Waterford, and that part of the coastline is damaged by an accident involving a ship carrying crude oil, how will the compensation scheme work? Who can claim? How will individual claims work? These are important questions that require clarification. Perhaps the Minister of State will give the House guidelines on what is involved and also how the insurance framework referred to in the legislation would operate. While the legislation clearly sets out how insurance is a prerequisite, how may people benefit who are affected by such an accident? Given the degree of damage that may be done, a sum of €1 million does not seem to be a high figure.

Why is it that the position of harbour masters is addressed in the Bill but not in the maritime safety legislation? Is the framework for enforcement of maritime safety not part of this Bill? This is something that must be constantly on the agenda. We may have all the legislation we want but ultimately, the rules and regulations have to be enforced and sanctions are clearly an important part of this.

The fears expressed by people regarding the transportation of nuclear materials has been raised, but it is worth mentioning again. No amount of compensation would be of benefit or of any relevance in the event of a serious accident involving such material. We have a particular interest in this area, and the Government stance has wide public support. However, unless it is met with co-operation and agreement by other EU member states, particularly our immediate neighbour, this means nothing, and remains merely an aspiration.

I do not have anything further to say on the legislation that has not already been said. I look forward to a more detailed scrutiny of the Bill on Committee Stage.

Mr. MacSharry: As always, it is a pleasure to welcome the Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Gallagher, to the House and I also welcome the opportunity to comment on the Bill. I do not want to be repetitious, but there are a few points I would like to reiterate.

The Bill is designed to enable Ireland to implement the International Convention on Liability and Compensation for Damage in connection with the carriage of Noxious Substances by Sea 1996, agreed by the International Maritime Organisation. It is most appropriate that compensation payment arrangements are on the same lines as those currently applicable to compensation for oil pollution damage. Some of the materials that we heard about earlier include those which are explosive in nature such as liquefied gases, corrosive acids, volatile chemicals, aromatic liquids and certain solids which generate dangerous gases. These, carried in bulk, are by internationally agreed codes to which Ireland is party, classified as hazardous or noxious.

I noted from the Minister of State's comments and from a briefing note I saw, that this legislation does not apply to radioactive material. Such material is referred to in other conventions, namely, Vienna and Paris. I also note that at this stage, Ireland has acceded to neither convention. I am interested in hearing from the Minister of State what are our plans in pursuance of this because in terms of radioactive waste it is an issue of the utmost importance to Ireland, given the busy shipping lanes near us, not least our proximity to Sellafeld.

I welcome the establishment of an international compensation fund which will be financed by the companies trading in substantial amounts of the materials covered by the conven-

[Mr. MacSharry.]

tion. It is most appropriate that these companies should deal with that. They should be paying generous amounts into these funds because there are great risks involved. In terms of incidental waste at sea or objects that fall overboard from cargo ships or otherwise, there should be some method of traceability for all cargo carried by ships. We see such material washed up on beaches throughout the world, not least in Ireland, which is an island nation. If there was traceability, it would be possible to go back to the people responsible and perhaps gain access to funds that they pay into, to help clean up beaches which are subject to incidental litter or pollution from the sea from vessels such as container ships or pleasure craft.

The Minister of State mentioned that the fund would pay any compensation necessary over and above what the shipowner is liable for up to a limit of €250 million standard drawing rights, which he indicated were approximately €350 million. The Bill will give effect to the 1996 Protocol to the International Convention on Limitation of Liability for Maritime Claims 1976, which provides for the higher levels of compensation in individual cases, now available under the hazardous and noxious substances convention. The Bill, when enacted, will ensure that Ireland is fully aligned with international standards of protection against damage in connection with carriage of hazardous and noxious substances. This is to be welcomed. I am pleased that despite the fact that it has taken a number of years, Ireland is moving forward and acceding to this convention. The Minister of State and his officials have made great strides in their endeavours to ensure the protection of our coastline and waters and they have played their part in ensuring the sea, which is an important resource, is protected.

I refer to liability and compensation. The arrangements for payment of compensation are similar to those applicable to payment of compensation for oil pollution, which is appropriate. Ship owners will be liable to pay compensation in the first instance. Depending on the size of their ship, this could amount to a maximum of €130 million. Under the convention, ship owners are obliged to carry compulsory insurance, which will vary on a sliding scale according to the tonnage of their vessels. This protects against potential damage but also protects the ship owners. A standard will be laid down with which they must comply. A compensation fund will be established into which people trading in these substances will pay and that is welcome.

The Protocol to the Convention on Limitation of Liability for Maritime Claims 1976 establishes the basis on which claims may be made on foot of the various risks incidental to maritime transport and how they may be prosecuted and it sets maximum aggregate limits, depending on the tonnage of the vessel involved for claims arising from an incident. The hazardous and noxious substances conference considered, however, that these limits would not be sufficient to provide

adequate compensation for claims likely to arise under the new hazardous and noxious substances convention and contemporaneously agreed the proposed protocol would increase the limits.

The effect on domestic shipping is to require Irish vessels everywhere, and non-Irish vessels within the 200 nautical mile limit in accordance with the terms of the convention, which are carrying hazardous and noxious substances to carry compulsory insurance for the amount they may be liable to pay in compensation for loss or damage caused by such substances. These are listed in the convention but radioactive material is not included. When will Ireland accede to the Paris and Vienna conventions? What proposals are being put in place to protect Ireland in this regard?

The deliberate discharge of these materials into the sea is a criminal offence under the Sea Pollution Acts 1991 to 1999. The legislation provides for enforcement by the Garda, Defence Forces and harbour masters. Are the penalties for non-compliance strong enough? For example, a summary conviction attracts a fine not exceeding €3,000 or 12 months in prison but imprisonment has rarely, if ever, occurred. The production, trade and transport of hazardous substances is a big money industry. Are fines of €3,000 significant enough to ensure those in the industry operate to the highest safety standards without cutting corners? On conviction on indictment, one is liable to a fine of €1.27 million and five years in prison. Perhaps these penalties should be re-examined because they may not be strong enough. I wish the Minister of State and his officials well in their endeavours on our behalf. They have done a fantastic job to date and will continue to do the Oireachtas proud.

Dr. Mansergh: I welcome the Minister of State with responsibility for the marine and his officials. I was one of those who was most concerned that the marine portfolio should be retained as part of this Ministry in 2002 because that was one of the most enlightened innovations introduced by Fianna Fáil when it went back into Government in 1987. It was an initiative of the then Taoiseach, Charles Haughey, and it is important that such initiatives should be maintained.

This is important legislation which will complete the mesh of protections for our marine resources, although it does not include oil pollution or radioactive substances. The international community has learned the hard way over the past 30 years following wrecks involving tankers and ships carrying dangerous substances. These ships operate in many cases under a flag of convenience, the ownership is unclear, the ship is old and potentially unseaworthy and little compensation is available for coastal areas affected by wrecks.

Last week our beaches were highlighted. Usually at this time of year the list of beaches that meet European and domestic environmental

standards is published. It has not often been acknowledged that Ireland has exceptionally clean water along its coast. While one can swim in warmer waters in the Mediterranean Sea, one can swim in cleaner water off the west coast. That is an important tourism resource but it is also part of the clean environment we have, yet because of our position in regard to shipping lanes, we are as vulnerable as most countries to ship wrecks and so on. By tightening the protections, insurance and indemnities required, the people who operate on thin margins and do not have properly-trained crews or seaworthy vessels and so on may be deterred because they must take the proper precautions, otherwise it will cost them. The word “cowboys” is wrong in the context of the sea and “pirate” is also not quite correct. That network of protections is important to us as an island nation and, therefore, I warmly support the legislation.

Mr. Finucane: We discussed the sea pollution issue a few years ago and reference was made to the *Erika*, *Prestige* and other ship wrecks. The legislation is overdue and, while I acknowledge its spirit and intent, people are most concerned about the potential threat posed by Sellafield in the context of sea pollution. The threat has been elaborated on in the press on many occasions but it is worrying that yesterday the operators of Sellafield conceded that there was a leak within the concrete chambers on site which occurred 23 days ago and they do not know how to counteract it. I am concerned substances could leak into the sea and create significant pollution difficulties and have other implications for Ireland. The authorities at Sellafield have assured us that the processing of spent nuclear fuels will cease in 2012 but it will take another 150 years to complete the process of decommissioning. While Sellafield may benefit the consumers of electricity in England, it is inherently hazardous for our community. Many of our concerns revolve around this issue.

Substandard shipping, particularly in single-hull ships, is another matter of concern. Since 1 July 2004 all single-hulled ships operating within 200 miles of our coastline must notify the coastguard. To what degree is that being effectively implemented? As the Minister is aware, a recent situation illustrated that certain countries now use the Irish tricolour as a flag of convenience and in many such cases the ships never land in Irish ports.

We are all aware of the recent publicity about the wage rates of a person from the Philippines working with an Irish shipping company. To what degree, if at all, do our labour rates and other standards apply to ships using the Irish flag as a flag of convenience? Are we likely to see a situation in the future, particularly given the recent focus on the Turkish workers at Gama, where the Government and the Department of Communications, Marine and Natural Resources will be criticised because people working in ships under an Irish flag of convenience will be considered to be working for Ireland and for an Irish shipping

company? What protection do we have against that?

The necessity for the fines and penalties included in the legislation has been well illustrated, particularly with regard to potential pollution problems. To what degree does the Bill apply to sea pollution within our harbours, such as oil or diesel leakages? Does the Bill have teeth in this matter or does it deal only with the open sea?

As a result of the 11 September attack, a commitment was given that many of our ports would be made secure against terrorist attacks. What degree of latitude applies to people who had traditional rights of access to these ports? If the ports are completely secure, are people who had fishing rights there no longer allowed to fish or can they get a special permit? It is important to secure our ports, but in doing so did we remove traditional rights of usage from people who need to have access for fishing or other activities?

There appears to be a contradiction in this matter as the Harbour Act 1996 includes a commitment that port companies encourage leisure activities, and I include fishing as a leisure activity. While this is not within the spirit of the Bill, as it is a security emphasis rather than a pollution emphasis, I would like to hear the Minister of State's reaction. Leisure and port activities can exist in harmony but it requires goodwill from the port authorities to do so.

Mr. Dooley: I welcome the Minister of State to the House to discuss this important legislation. Having read the Bill in detail over the past number of days, it appears to be technical in nature, but like many technical Bills it includes some practical effects. Coming from County Clare, which has a long coastline, I see the importance of this Bill. Senator Daly is a former Minister with responsibility for the marine, but unfortunately he cannot be here due to commitments in Strasbourg. His experience gives him some expertise in this matter, and having discussed the Bill with him, I will try to alert the House to some of his concerns.

Will the Minister clarify the issue of compensation for sea-fishing fleets where stocks were depleted by a hazardous material entering Irish waters, particularly if it occurred in proximity to inland waterways, such as exist in County Clare? I appreciate that inland waterways flow out to sea but if there was an transfer of noxious or hazardous materials from the sea to inland waterways would compensation transcend to those areas? Any effects such as transfer of disease or bacteria would be significant for salmon fishing in County Clare. I could not see any provision for this in the Bill but perhaps the Minister of State or an official could enlighten us on that.

The Bill has the potential to offer protection to the tourism sector. In the Shannon Estuary a school of dolphins forms a central part of the marine tourism project operated out of Kiltrush marina. Any damage to it would have a significant impact on the region's tourism potential. The same applies to Dingle and other parts of the

[Mr. Dooley.]

western coastline. It would be of great comfort if the Bill had the effect of underwriting any damage to this wildlife and potential tourism. I am sure Senator Finucane, from the other side of the Shannon Estuary, would also welcome clarification on this.

Tourism is of great significance along the entire west coast and the mid-west region. The Cliffs of Moher are one of the biggest tourist attractions in the west of Ireland, currently being developed by Clare County Council which aims to spend €30 million on a visitor centre. The water plays a significant role in the quality and image of that product, even though there is no access to it. Do the protections afforded in the Bill stretch to other existing land-based tourist attractions or those with tourism potential which would be significantly affected if noxious or hazardous material were deposited in the water?

Unlike an oil spill, if an accident left noxious or hazardous materials in the water, airborne particles could get into the atmosphere, which would have a significant effect on the desire of tourists to visit attractions. Does the Bill offer protection for Clare County Council as the operator of the new visitor centre? Would it be able to take a claim against the insurers of the operation?

It is useful to see such legislation at a time when Ireland is focusing on its true tourism potential. Few counties in this island nation are not affected by proximity to the sea. Such proximity is good for agriculture or tourism and that is the Bill's greatest impact. Hopefully, the Bill's speedy passage through the House will ensure the livelihoods of those who depend on fishing and tourism are protected by allowing them to seek appropriate compensation. Can the Minister of State clarify whether the legislation will allow local authorities and State agencies which carry out tourism or aquacultural activity to make claims or will it relate to private companies and individuals only?

I welcome the Bill and thank the Minister of State for attending the House today.

Mr. Lydon: I am especially interested in the Bill as I come from Ireland's premier fishing port, which happens to lie within the Minister of State's constituency. Pollution at sea is a matter of great importance to those of us who, like Senator Dooley, come from counties with substantial coasts. The Bill is an example of the technical legislation which drifts through the Houses occasionally without being the subject of too much examination. While spokesmen in both Houses speak to such Bills, the majority of Members are not especially interested. The Sea Pollution (Hazardous Substances) (Compensation) Bill, however, is very important and I welcome its introduction. I welcome the Minister of State to the House to present it.

While Senator Kenneally mentioned wrecks and oil spills, one can see the effect of pollution on a smaller scale on a beach like the one at St. John's Point after a gale force wind. When one sees the amount of flotsam and jetsam which has

come ashore, one realises how much material is illegally dumped overboard from ships at sea. It is a sad reflection on those seafarers internationally who have so little respect for the sea which gives them their livelihoods that they throw overboard those things which are no longer wanted.

I hope the Minister of State will address the following points in his closing remarks. Section 6(1)(a)(i) provides that on summary conviction a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months may be imposed. There is no comparison between €3,000 and 12 months in prison. If the Minister of State offered me the choice, I would give him €3,000 immediately. The sanction should be a fine of €100,000 or even €200,000 or 12 months in prison. It has been the case in many recent Bills that the sums referred to as fines are the euro equivalent of fines more appropriate to the previous century. They do not reflect today's reality. I do not know any ship's master who would not rather pay €3,000 than spend 12 months in prison. The Minister should increase the fine substantially if he can. If an offender were to be fined and imprisoned, the matter would not arise, but if the sanction is a fine or imprisonment, €3,000 is a very small amount of money. It is a matter the Minister of State should consider.

Section 18(2)(b) provides that the High Court will not make an order for the enforcement of a judgment where the judgment debtor was not served with the document instituting the proceedings in which the judgment was given in sufficient time to enable him or her to arrange for his or her defence. If a ship is caught in some act and impounded by the Naval Service, within what period must it be served with an enforcement order? Is there another relevant clause in the Bill? Can one be served with an enforcement order immediately or does it take some time? If so, can a ship be impounded and brought into port or must it be anchored until such time as an order is served? I would like the Minister of State to elaborate on the provision.

Section 23(4)(a) provides that an inspector may, for the purposes of the Act, stop and board any ship and inspect and examine that ship. The provision needs to be clarified as it cannot be the case that an inspector can board any ship. There may, however, be special definition of "ship" elsewhere in the Bill. I cannot imagine an inspector boarding a warship of Russia or the United States of America which might have noxious substances on board. I cannot imagine an inspector boarding a warship or military cargo or supply ship with noxious substances on board if it were involved in NATO or EU war games at a location near an Irish port or harbour or even within Irish territorial waters. While I do not wish to pick holes, I suspect the reference in the legislation to "any ship" is not correct. A great deal of legislation is enacted in which mistakes are later discovered. Unless there is a clarifying definition of "ship" included elsewhere, we overstep our authority if we include the term "any ship" in section 23 of the Bill.

I welcome this important Bill which deserves to be supported by Members on all sides.

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher): I thank the Senators who have contributed to today's important debate. Senator Kenneally was quite right on the matter of harbour masters. The Bill will specify "harbour authority" rather than "harbour master". The matter was also raised in the Dáil. It will be a matter for a harbour authority as the prescribed body to make appointments, though one imagines the first person an authority would appoint as one of the authorised officers would be a harbour master.

I wish, to use a pun, to draw clear water between oil pollution and pollution by hazardous substances and noxious waste. The Bill gives effect to the International Convention on Liability and Compensation for Damage in connection with the carriage of Hazardous and Noxious Substances by Sea 1996. The Bill gives effect also to the 1996 protocol to amend the Convention on Limitation of Liability for Maritime Claims 1976.

Senator Coghlan referred to the delay in bringing the Bill to this stage. The Bill was published first in April 2000 and Second Stage commenced in the Dáil in February 2001. A general election took place in 2002 after which the Bill was restored to the Dáil Order Paper. Second Stage in the Dáil concluded in November 2002 and it took two years to bring the Bill to Committee Stage, which I took in November 2004. While the Bill has been a slow starter, I hope it will be processed by the Seanad relatively quickly and enacted. I am extremely anxious to see Ireland become an additional country to have passed the Bill as there is an 18-month lead in time after the required number of member states have adopted the provisions it sets out.

Reference was made to the need for the EU to lead the way. Member states have been urged to introduce legislation and are proceeding at different speeds. We have no control over the actions of other member states and can only influence what we do ourselves. I am extremely anxious to ensure Ireland plays its part and enacts the Bill before the summer recess. I will depend very much on the co-operation of Members on Committee and Report Stages when we can address the minutiae of the legislation.

In my opening speech I made mention of the proximity of nuclear materials to Ireland's coast. Reporting will be important after 1 July. Protection areas, PSSAs, were approved by the International Maritime Organisation in October 2004. A reporting system for tankers was accepted by the IMO's navigation committee and was formally adopted as a legal mandatory reporting system at the end of last year. I am pleased to confirm that this system will enter force in July, after which vessels will be obliged to report upon entering territorial waters.

The transportation of nuclear materials, which was referred to by Senator Kenneally, is a concern to the Government and every Member of this

House. As Minister of State at the Department of the Environment, Heritage and Local Government, I raised this issue in Europe on a number of occasions and met with Ministers responsible for energy and the environment, including UK Secretary of State for Environment, Food and Rural Affairs, Ms Margaret Beckett and UK Secretary of State for Trade and Industry, Ms Patricia Hewitt. At a meeting in London attended by the former Minister for Environment, Heritage and Local Government, Deputy Cullen, I made clear the unambiguous stance of this Government on Sellafield and its MOX plant.

Reference was made to the events of 11 September 2001. The effects of a similar disaster at Sellafield, which would not be limited to those living along the east coast, are too horrendous to contemplate. It is important that we are prepared and make provision for an adequate response. While precautions in terms of transport should be taken, regard must be paid to the law of the sea and the right of innocent passage. Arrangements have been put in place for advance notification of coastal states. Authorised officers should have the right to inspect any ship believed to be carrying hazardous wastes or causing oil pollution that might affect the marine environment. It would be for the better if, upon inspection, the ship was found to be free of such dangers.

Senator Dooley asked questions on the knock-on effect and compensation. Decisions on compensation are matters for governing bodies, that is, the assemblies of contracting states. After the convention enters force, these bodies will agree guidelines in accordance with it. The proximity notion will apply when assessing claims to compensation for damage to the marine environment, sea or inland fisheries and onshore areas. It will be a matter for the courts to decide whether it is clear that damage is caused by a ship. The same will apply for damage done to tourism and other sectors. While it is a global statement, contracting bodies will decide in the first instance on guidelines for and recipients of compensation. We should take all appropriate measures to ensure that such a situation will never arise.

Fines of €3,000 or 12 months for summary offences or €1.27 million on indictment are in accordance with the guidelines for the Sea Pollution Acts. It is not a matter of whether €3,000 is paid or 12 months are served. Both penalties may be incurred. The advice of the Parliamentary Counsel was followed on this matter. An issue which regularly arises is that 20 years after an Act is passed, fines may remain the same. The Minister for Justice, Equality and Law Reform will publish a fines Bill later this year which will ensure that all fines will increase on a consumer price or other index. This is a sensible plan. The fine for a summary offence, which is not excessive, will be issued by the District Court.

Senator O'Meara raised the concerns that exist in terms of serious incidents. This Bill, which received widespread support in the Dáil, mirrors the two tier compensation arrangement applicable to oil pollution. As is the case for oil, contributions to the international fund are made by

[Mr. Gallagher.]
importers. I do not expect the State to contribute a significant sum. However, the geography of this island makes it vulnerable. With the support of the Government, my Department has adopted a strategic role to protect and preserve the marine environment.

Senator MacSharry noted that Ireland was not party to the convention on radioactive material. I will consult the Minister for the Environment, Heritage and Local Government, Deputy Roche, who has responsibility for this matter, on plans for the fulfilment of our commitments to that convention and report back to the Senator.

The regulations pertaining to State port control will be an issue. We have responsibilities to our vessels, whether they are landing here or in other parts of the world. Port state control will become more important and we want to ensure that we have regulation of ship classification societies, to accelerate the phasing out of single-hull oil tankers. I am not sure how long that will take, but it is vital that it happens within a prescribed period. We also want to strengthen the port State control measures, the ship reporting arrangements, sanctions relating to ship source pollution and increased compensation for victims of pollution by oil tankers.

There are many measures in place and others will have to be introduced. I hope we can debate the issues in more detail on Committee Stage. I thank the Members who contributed and who are anxious to ensure that we fulfil our obligations. We must remember that we are the custodians of the environment, including the marine environment. Sometimes we take the view that the environment is mainly land based, but the marine environment is extremely important. We must ensure that all necessary precautions are taken so that we fulfil our duty to hand over the marine environment to future generations in a better state than we have found it.

Question put and agreed to.

Committee Stage ordered for Tuesday, 17 May 2005.

Adjournment Matters.

National Parks.

Mr. Coghlan: I am concerned about the native red deer herd, which was threatened with extinction not too long ago. The herd is now estimated to number 700, but we do not have a definitive number. I understand that there are some red deer in Doneraile, Letterfrack, Donegal and in Wicklow. Unfortunately, the deer in Wicklow are hybrids and the deer in Donegal are Scottish.

We owe a debt of gratitude to the former Taoiseach, Mr. Charles Haughey, for helping to protect and preserve the gene pool by taking some red deer to his island of Inishvickillane.

This was to protect the herd in the event of the animals on the main land being attacked by TB, which thankfully never happened.

Killarney National Park is an international biosphere reserve and no one wants to see people entering the park with licensed guns to hunt. That would be an anathema to everything that a national park represents. Deer will naturally wander in search of food and there has been an invasion of the grazing land of the deer, in the upland areas, by cattle and sheep. The authorities have not been able to control this encroachment. I accept that the deer may be a nuisance to farmers and perhaps more control measures are needed.

The road from Killarney to Kenmare, a national secondary route, passes through the heart of the national park. There are signs warning motorists of the presence of deer because naturally the animals cross that road. However, it is scandalous that there are also 100 km/h signs along the route, some immediately adjacent to Muckcross village where there is a dangerous chicane. It is difficult enough, at low speeds, to negotiate the bends in the road without having 100km/h signs erected. This is close to the area where the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, was struck. Thankfully, nobody was seriously injured in that incident, but much damage was done.

I appeal for the removal of the 100km/h signs and an increase in the number of deer warning signs. This is an historic area, encompassing Muckcross Abbey, Muckcross House, a hotel and Torc waterfall. People should be encouraged to reduce their speed while driving in the national park.

Many people in south Kerry, and in Killarney in particular, are very perturbed by the negative attitudes to the alleged overpopulation of the red deer herd. A proper count must be conducted so that we know the exact numbers, for both the red deer and the Sika. These animals are a protected species and they deserve professional management by a properly established authority. We do not have such an authority.

I have referred to the fact that increasing numbers of deer are invading lands outside the national park area, in search of food. The deer have been forced from their mountain habitat by the competitive presence of cattle and sheep, new forestry and rhododendrons. It is time that the management of deer throughout Ireland, and in south Kerry in particular, became the focus of the interested bodies affected such as the National Parks and Wildlife Service, the IFA, the ICMSA, Coillte and others. These bodies must agree on structures that will protect both the deer and the public.

Members of the Kerry Deer Society are very upset at the measures being suggested for the control of deer. Hunting licenses have been called for and the chairman of the society likened the situation to the wild west and deplored the indiscriminate slaughter of deer. While this may be an overreaction, it is not acceptable to issue hunting licences to people outside of State control. If a

deer cull is necessary, then the State should carry it out because there is a Bourne Vincent Memorial Park Act of 1932, which was the forerunner of the Killarney National Park and covered the initial 11,000 acres —

An Cathaoirleach: Senator, the time allowed is five minutes and that time is up.

Mr. Coghlan: I appreciate that and am just about to finish.

Nobody representing the State wants to see unfortunate incidents with guns, such as the recent one in Northern Ireland where a bullet ricocheted and hit a child in the head. We do not want to see incidents like that in Killarney National Park. A meeting of all interested parties and Government personnel would be welcome, with a view to discussing the situation in a constructive manner and arriving at sensible decisions.

However, we cannot take any action until we have a comprehensive count of the herd, to establish the exact numbers of red and Sika deer in the country. The Sika is an imported Japanese species, which is not held in high regard when compared with the red deer. However, both Sika and red deer are protected under the Wildlife Acts. I look forward to the Minister of State's response on this matter.

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher): I wish to apologise on behalf of the Minister for the Environment, Heritage and Local Government, Deputy Roche, who regrets that he could not be here to address the important issue raised by Senator Coghlan.

The Wildlife Acts of 1976 to 2000 provide for the Department to make orders relating to the provision of open seasons for the hunting of wild red, Sika or fallow deer, which are not the property of the State. In general, the open season for stags runs from 1 September to 28 February and for hounds, from 1 November to 31 January. There are some regional variations, such as in Dublin and in Wicklow.

Applications for licences to hunt wild deer under section 29(1) of the Wildlife Act 1976, as amended, are considered by my Department from 1 August for the following open season. Some 2,215 such licences were issued for the 2003-04 season and 2,475 such licences were issued for the 2004-05 season. The extent of the deer-hunting season is reviewed annually by staff of the National Parks and Wildlife Service of the Department, taking account of the conservation needs of the individual species. The views of a number of organisations and individuals with knowledge of Irish deer species are taken into consideration also when reviewing open season dates.

In Kerry — the county referred to by Senator Coghlan — outside of Killarney National Park, wild Sika and fallow deer can be hunted during the open season for deer, on foot of a deer hunting licence. There is no open season for red deer

in County Kerry, so that species cannot be hunted there at any time of the year.

Red deer causing serious damage to agriculture or forestry, however, can be killed on receipt of a licence issued by the Department under section 42 of the Wildlife Act, as amended. This provision is a separate matter from the open seasons orders. Section 42 applications are dealt with on a case-by-case basis.

The Minister for the Environment, Heritage and Local Government is aware of pressure for an open season for red deer in County Kerry, arising from road accidents involving red deer and numbers of deer frequenting farm lands. From information collated by National Parks and Wildlife Service staff, fortunately, there appears not to have been any injuries to people as a result of collisions with deer, but car damage has been reported.

The statistics concerning accidents reported in the 2001-05 period, to date, are as follows: In 2001, two deer — one red, one Sika; 2002, four deer — one red, three Sika; 2003, eight deer — one red, seven Sika; 2004, ten deer — two red, eight Sika; 2005 to date, four — all Sika. These statistics, though limited geographically, would suggest that Sika deer, rather than red deer, have been accountable for the increase in reported accidents in and around the national park in recent years.

The possible inclusion of Kerry red deer on the open season order for 2005-06 is being considered at present. Any decision on this issue will be based on all available information, such as results arising from counts and observation of the spread of such animals throughout the county. If it is concluded that an open season is warranted, one possibility would be to restrict shooting to hinds so that trophy hunters are not attracted. Control of hind numbers is the most effective way to manage overall numbers of any species of deer.

Within Killarney National Park, extensive counting of deer species by staff of the National Parks and Wildlife Service has taken place since the 1970s. Counts have been undertaken in most years except when it was not possible due to weather conditions. I wish to reassure Senator Coghlan that these detailed counts will continue and the National Parks and Wildlife Service is willing, and has offered, to meet with interested parties to discuss the results. The Department considers that this approach would be far more productive than relying on speculation and hearsay. Should the Senator so wish, I can make the detailed statistics from those counts available to him.

In order to maintain deer numbers at a sustainable level and minimise the impact of excessive grazing and browsing on woodlands and native flora within the national park, deer have as necessary been culled, under licence, by trained and experienced National Parks and Wildlife Service staff. On average, approximately 150 Sika deer and 50 to 60 red deer per year have been so removed. Many of these were sick, old or lived alone rather than with a herd. The red deer culled have all been on the lowlands and some

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have been on areas adjoining the national park, such as farm lands and on Killarney golf course.

I recommend to the Senator that those concerned about the future of red deer should continue to keep in close contact with the regional management of the National Parks and Wildlife Service. The NPWS staff have great experience and expertise in dealing with the conservation and management of wild deer and especially the red deer of Kerry, which are a vital part of our natural heritage.

I have noted Senator Coghlan's contribution, particularly regarding the requirement to provide warning signs and the need for motorists to reduce speed in the general vicinity of the area to which he has referred.

Mr. Coghlan: I thank the Minister of State for his reply. I would be grateful if he could supply me with the statistics to which he has referred. I plead with the departmental officials that if a cull is absolutely necessary as a result of any such statistics, it should apply only to the imported species and not to native red deer.

Visa Applications.

Ms Tuffy: The Department of Justice, Equality and Law Reform has kindly extended the visa for the persons to whom this Adjournment matter refers, until June this year. However, the Department stated that any fresh application for a visa must be made from outside this country and, thus, the applicants must return to Pakistan to do so.

The son of this family is working here as a doctor. His mother and sister came here following the sudden death of the doctor's father in a car accident last year. Given that the family is a Christian one, the people concerned are apprehensive about returning to Pakistan to apply for their visas. They hope the Department would consider that they could make the visa applications here. It would be an exceptional request, but in light of their circumstances I hope the Minister and his Department might consider their request compassionately.

Mr. Gallagher: I wish to apologise for the absence of the Minister for Justice, Equality and Law Reform, who unfortunately cannot attend the House at this time. For the benefit of the House, I am pleased to respond on the Minister's behalf to the matter raised by Senator Tuffy.

I would like to set a general context for the reply to the issues raised by the Senator. The issue of overstaying short duration visas is a major problem for immigration authorities in developed countries. In Australia, for example, overstayers comprise by far the largest percentage of the cohort of irregular immigrants. For that reason the wrap-around information sheet, which accompanies every Irish visa application form, makes it clear to the applicant that, in gen-

eral, persons granted visas for particular purposes are not permitted to involve themselves in any activity or to remain in the State for any purpose other than that for which the visa was granted. Otherwise, the holiday or visit visa regimes would simply become a vehicle for longer term chain migration, especially where extended family members of persons who are here already are concerned. It should be noted in that context that there are well-established regimes for the admission of immediate family members, that is, wives and children.

The persons in question are the mother and sister of a doctor who is working in Ireland. They are aged 64 and 25 respectively. In 2004, these persons together with the doctor's father were admitted to the State on visitors' conditions. During the course of that visit it emerged that the father needed medical treatment and permission to remain was extended for four months on a humanitarian basis to allow such treatment to take place.

Upon his return to his country of origin, the father died in tragic circumstances in a car accident. On 29 November 2004, the mother and sister re-entered the State on another visit visa. In December 2004, a letter was received from the their solicitors seeking an extension of the permission. That extension was turned down without prejudice to their right to apply for a further visit visa from their country of origin.

Following that refusal, further information was supplied indicating that certain medical appointments had been made here for the mother for treatment for diabetes. For humanitarian reasons the Minister, through his officials, extended permission to remain until 30 June this year. Therefore, the position is that this permission to remain still has almost two months to run. To date the Minister has, therefore, extended the permission to remain to the members of the family in question on two separate occasions for humanitarian reasons. He is now prepared to extend permission for a third time, on this occasion for a further year from the date of expiry of the current permission on 30 June 2005, again having regard to the humanitarian circumstances of the case. This permission can be reviewed at the end of the 12-month period having regard to all the circumstances at that point.

While it is difficult to do justice to this type of issue in the context of a brief Adjournment debate, I refer Senators to the Minister's document, Immigration and Residence in Ireland, published in April this year. The document contains outline policy proposals for an immigration and residency Bill. Pages 92 and 93 deal specifically with the issue of persons coming to Ireland for medical treatment and the document also contains an entire chapter on family reunification. I understand a copy has been made available to every Member of the House.

The Seanad adjourned at 5.25 p.m. until 10.30 a.m. on Wednesday, 11 May 2005.