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**Wednesday,
24 June 2009**

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Wednesday, 24 June 2009.

[illegible]

SEANAD ÉIREANN

Dé Céadaoin, 24 Meitheamh 2009.
Wednesday, 24 June 2009.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

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

The need for the Minister for Education and Science to progress the building of a new national school at Rathcormac, County Cork.

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

The need for the Minister for Health and Children to outline the time schedule for the fit-out of the health care equipment and beds at the new unit of St. Joseph's Hospital, Dungarvan, County Waterford, and when it is proposed to have the unit fully equipped, staffed and opened for the care of patients.

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

The need for the Minister for the Environment, Heritage and Local Government to address the situation where hundreds of customers of Donegal County Council are paying over 10% in interest on loans from the local authority and to outline how he intends to rectify this.

I have also received notice from Senator Fidelma Healy Eames of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to clarify if a person has the right to reapply for planning permission at the same location with two enforcement notices against an applicant not yet complied with.

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

The need for the Minister for Transport to give a date on which the Rathconnell to Turin bypass in County Westmeath will be open.

I regard the matters raised by Senators Bradford, Coffey, Doherty and Healy Eames as suitable for discussion on the Adjournment. The matters raised by Senators Bradford, Coffey and Doherty will be taken at the conclusion of business. Senator Healy Eames may give notice on another day of the matter she wishes to raise. I regret that I have had to rule out of order the

[An Cathaoirleach.]

matter raised by Senator McFadden, as the Minister has no official responsibility in the matter, which is one for the NRA.

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, Nursing Homes Support Scheme Bill 2008 — Report Stage, to be taken at the conclusion of the Order of Business and to adjourn at 5 p.m., if not previously concluded; No. 35, Private Member's business, motion No. 33 regarding the dairy industry, to be taken at the conclusion of No.1 but not earlier than 5 p.m. and to conclude not later than 7 p.m. The debate on No. 1, if not previously concluded, shall resume at the conclusion of No. 35. The business of the House will be interrupted from 1.15 p.m to 2.15 p.m.

Senator Frances Fitzgerald: I raised concerns yesterday about the cutbacks affecting Our Lady's Children's Hospital in Crumlin. There is a danger that the hospital will fall behind international norms for the treatment of various illnesses affecting children because of the cutbacks, not the quality of the service provided or the commitment of the staff. The cutbacks mean there will be longer waiting lists which mean children will not be treated when they need to be. If the Government believes €20 million can be saved between the three children's hospitals, its members should meet representatives of the three hospitals to discuss where they believe the savings can be made. The board told the committee it had requested such a meeting and pointed out that the HSE had no structure for dealing with paediatric services. There is no senior person dealing with paediatric services, which is beyond belief. Yesterday Senator MacSharry raised concerns about how a query raised by him had been dealt with. It is unbelievable there is no structure for dealing with paediatric services in the HSE. The Minister is relying on a new hospital to meet the needs of children who need operations now. The health boards were put together to form the HSE and this is the level of response. It does not make one hopeful for the proposed children's hospital and how it might meet the needs of children.

There are reports in the newspapers on a meeting with the social partners which suggest they are being briefed on the pensions time bomb. The OECD report states Ireland is among the worst in the world for the losses suffered by pension funds. Once again we see a Government which has taken its eye off the ball and where a reliance on property has led to a dramatic problem with pensions. Why can the social partners be briefed on Government plans for protecting mortgages, an issue which has been raised by many Members, and the pensions time bomb but Members of this House cannot?

Senator Fidelma Healy Eames: Hear, hear.

Senator Frances Fitzgerald: We have asked the Government for report after report on these issues and the Minister to attend the House to discuss them, but we have not been briefed. No wonder the public has lost faith in the Government. If we do not have briefings as elected Members of this House and the Dáil, how can the public have faith in the processes and the way the Government is running the country?

I propose an amendment to the Order of Business in order that we can have the much called for debate on the economy today and that we can be briefed on these issues when it is reported in the newspapers that the social partners are being briefed. We need to integrate our work with that of social partnership if it is to survive these difficult times, a matter against which there is a big question mark.

Senator Joe O'Toole: The point made by Senator Fitzgerald has been echoed on a number of occasions. Senator MacSharry and I have asked for a discussion on these issues to enable us to focus on them and obtain information. The Leader promised a monthly debate on the economy, then a weekly debate and on one famous day a bi-weekly debate. We have not had any debate on the economy but we must have one.

I do not necessarily agree with everything Senator Fitzgerald said. Fund managers must take some responsibility, having decided to invest assets in property as opposed to spreading them around, but it does not take from the point made by Senator Fitzgerald that we must deal with these issues. There is not just one crisis — banking; there are also the issues of unemployment and pensions, among others, that must be dealt with. This point must be reiterated.

People are beginning to see that social partnership is not an issue of principle but pragmatism. It is where one has people with different points of view, makes them listen to each other and gets them to hammer out some common objectives. For six months I have been saying it is not difficult to agree the common objectives of all parties and find a way through in that direction. This is the time for real leadership. I admire the courage of my colleagues in the trade union movement. Trade union members, like ordinary members of the population, do not have confidence in the Government. They are looking caustically and cynically at what is going on. They do not want another national agreement. Trade union leaders, like the leaders of IBEC and responsible political leaders, believe hard decisions must be taken for the good of the country in order that we can come together in the future. We must have that debate in order that Members of these Houses can buy into these issues, on which the Government must be brave and courageous. The idea that prevention is better than cure does not apply to good leadership. Leadership that manages to prevent disasters never receives credit. If we can prevent unemployment reaching 500,000, we will never receive credit for it, as it will always be pointed out that the unemployment figure was up to 450,000. Hard decisions must be taken, but there will be no positive political gain. However, it must still be done for the sake of local economies, small businesses and the protection of jobs everywhere.

I remind the Leader of my call for a debate on Iran. It is right to support supporters of Mr. Mousavi, but he is not the answer as the regime is wrong. Even with Mr. Mousavi as President, the regime would not be a whole lot better, although as a person he certainly is. The problem is that there is no democratic opposition supported by the western world. Democratic peaceful opposition is provided by the Mujahideen, a group which wants to change the regime and not allow the situation to morph into what happened in Afghanistan. This is likely to happen, even if Mr. Mousavi is the leader. There are issues to be discussed and we must learn from what has happened.

Senator Michael McCarthy: I second the amendment to the Order of Business proposed by Senator Fitzgerald. We called for debates on various aspects of the economy such as pensions, mortgages and unemployment. Given the current economic climate, there is a list of debates we could demand. However, on every occasion we asked for such a debate, we did not see the Minister for Finance in the House. He must come into the House and engage with Members in a constructive way on the economy. Can the Leader ensure the Minister will be present when he arranges the next debate? I say this with all due respect to the Ministers of State who attend, but the issue is far too serious for the senior Minister to ignore. There has been little co-operation between the Government and the Opposition on how we can get ourselves out of the mess in which we find ourselves. There were various soundings on pre-budget submissions but in words only. In practice, there is no genuine attempt by the Government to seek constructive proposals from the Opposition. In the media this morning we read that the Government is bringing the social partners with it every step of the way, yet it excludes the

[Senator Michael McCarthy.]

Opposition. That is unwise and the folly of the Government will be very clear in the not too distant future.

I ask that the Leader arrange a debate on spiralling fuel prices. In May the average price of a litre of petrol was €1.08, it is now €1.16. It is almost up to €1.20 and beyond in some cases. This is crippling for motorists, particularly those living in rural areas. Bus Éireann has initiated a slate of cost cutting proposals which have affected many areas, not least west Cork. The Skibbereen to Baltimore service has been affected; the proposal effectively cuts islanders off from the mainland. With spiralling fuel prices, this leads me to call on the Government to take some action. Every time there is an increase in the price of fuel, the Government receives 33 cent on a litre of diesel and 44 cent on a litre of petrol. There is VAT of 21% on the overall cost. This is a revenue generating exercise for the Government which is doing very well out of this. I ask the appropriate Minister to debate the excise take of the Government and take some action to ease the pressure on motorists.

Senator Marc MacSharry: I join others in seeking a debate on the economy. We will have an opportunity to discuss the matter tomorrow when the Finance Bill is debated. I note the ringing praise of the IMF of Government policies, particularly the steps taken to stabilise the banking sector and the public finances. As Senator Donohoe and I agreed last week, the IMF points out that much more painful action must be taken in the budget. We must be tolerant and fair when the time comes.

I call for a debate on the potential introduction of an entrepreneurship education strategy. The matter is timely in the context of what Senator Harris said yesterday on the introduction of the Lemass award. In the past few weeks Dr. Thomas Cooney, research fellow on entrepreneurship at the Dublin Institute of Technology, and I, with members of the primary and secondary education sector, wrote a proposal in respect of an entrepreneurship education strategy for Ireland. We put forward a 12 point plan, introducing entrepreneurship education from primary school to third and fourth levels. This is not just to create a band of entrepreneurs to create employment in the years to come but also to develop attitudes and behaviour, particularly traits such as taking personal responsibility, creativity and leadership in all our young people. Many have talents which are not just academic. Academic success does not necessarily lead to business success. If we had an appropriate debate about the introduction of a number of measures, possibly including some of the 12 points we have come up with on an integrated entrepreneurship educational strategy, it could lay a foundation similar to that laid by Donogh O'Malley in the 1960s with the introduction of free secondary education, which led to the prosperity of the late 1980s and 1990s up until recent years. It could lay a base which could see a new breed of Irish people lead us into greater times of prosperity in the mid 2010s and into the 2020s.

Senator Fidelma Healy Eames: I support Senator Frances Fitzgerald's call for an urgent debate on the economy, particularly in light of the admission yesterday by the trade unions that social partnership is failing in its current form. Repossessions of family homes are, meanwhile, increasing and last week in this House I called for an urgent debate with the relevant Minister on this issue. I would like such a discussion on how the current failings in the economy are affecting people's lives.

Hundreds of parents waiting for adoptions are still waiting and worried because of a rumour that Ireland has cancelled the bilateral agreement with Vietnam. We still do not know the answer to this question and have heard no truth about it in this House. I understand the Minister of State, Deputy Barry Andrews, is travelling next Sunday to Vietnam. Will the

Leader facilitate an update and briefing on his return in this House? We initiated the adoption legislation here and we deserve to have that update on his return.

Senator Frances Fitzgerald: Hear, hear.

Senator Fidelma Healy Eames: Will the Leader facilitate that? Yesterday I spent the day in Mountjoy Prison interviewing——

Senator Camillus Glynn: What did the Senator do?

Senator Fidelma Healy Eames: I was not an inmate but I was there.

Senator Jerry Buttimer: The Senator is on day release.

An Cathaoirleach: Senator Healy Eames, without interruption.

Senator Jerry Buttimer: Donie bailed her out.

Senator Fidelma Healy Eames: I thank the Senator for his time. The House may know that I am conducting an Oireachtas study on early school leaving and one of the target groups that we are looking at is the prison population. We interviewed two men and two women in their 20s, so it is not that long since they were in primary and secondary school. There were no surprises as illiteracy and sexual abuse were the causes, in the main, of their educational failure. This comes on the back of the Ryan report and the fact that a third of our kids in disadvantaged areas are still not learning to read and write.

I call on the Leader to facilitate a debate with the Ministers for Education and Science and Justice, Equality and Law Reform on the causes of crime and how they relate to illiteracy and child abuse.

An Cathaoirleach: The Senator is out of time. My hands are tied.

Senator Denis O'Donovan: At this stage there are many fishermen and fishermen organisations agitating and planning a campaign for a “No” vote for the Lisbon treaty referendum — which I personally regret — because of disenchantment with Europe. I raise the question of debating the fisheries, particularly with a view to the Common Fisheries Policy, which is currently being renegotiated. I can never understand why the fishing community, which has an important role to play in this country, has never been involved in social partnership talks. Farmers are involved but fishermen have been excluded, which is also a sore point. I can understand their current anxiety.

I ask the Leader to support a call for a debate on the electoral register. I have been struck off twice from the register, and I found out in January this year that I was not on the register for voting this year. I am not alone in this and many others have been affected. Notice should be served to such people as we have a constitutional right to vote; anybody being struck off should be given the requisite notice.

The electoral register is an absolute sham and arising from the debate on electoral reform, we must make the register much more accurate. In a survey in my small home town, some 85 people were on the register who should not have been, with one person having been dead for nine years. In this modern technological age, there should be a better system. The issue was raised in previous weeks and although it is not urgent and will not be required before summer, we need an open and frank debate on the matter.

[Senator Denis O'Donovan.]

I was struck off the register twice and in the 1980s it cost me a vote in three elections, which I was bitter about. The register should be much more accurate in this modern age of information technology achievements.

Senator Feargal Quinn: Figures were published today in Britain showing that numbers of organ donations have increased since changes to legislation were implemented two years ago. The reason I mention this and bring it to the attention of the Leader is because we have adjourned a debate on a motion put forward regarding presumed consent. The Minister accepted the point that she wanted more discussion and has been meeting people to that end in order to increase the number of organ donations here.

People are waiting in hospitals for organs to be donated and presumed consent is part of the debate. The Minister agreed to a discussion on it over the few months since. Will the Leader ask the Minister to bring the matter to a conclusion and if she is to introduce her own legislation, will she do it as soon as possible because lives are at stake?

Senator Healy Eames referred earlier to being in Mountjoy yesterday. A decision in the courts last week indicated that non-payment of a debt should no longer end in imprisonment, and I accept this as a valid point in reducing the prison population. However, that may threaten family maintenance orders and I would like the Minister responsible to put our minds at rest in that regard. It seems that up to now it was possible to be put in jail if a person stopped paying family maintenance but if that is to be removed, there is a possibility that many will use this opportunity to avoid paying family maintenance. We should ensure this does not happen.

Senator Camillus Glynn: I support Senator O'Donovan in his remarks pertaining to the electoral register. I raised this matter yesterday and on a previous occasion. Senator O'Donovan referred to Bantry, where a number of people on the register had died. In Clonmore, the small area in which I live, up to recently there were three people on the register who have been dead a number of years. The electoral register process is an absolute and total failure and the best efforts of successive Governments have resulted in systemic failure. Senator O'Donovan might like to know that if people are to be removed from the register, they are entitled to written notification.

Today the chief executive officer of the Health Service Executive is visiting Mullingar regional hospital at my invitation, as I met him here some weeks ago. The House is aware that the hospital in Mullingar is one of the top three performing hospitals in the country. Professor Drumm will meet the leaders of all the sections of staff, including consultants, NCHDs, nursing, administrative and non-nursing staff. He will see at first hand how the staff in the hospital have attained that high degree of efficiency.

I hope the service which the staff of the hospital are giving, at a reduced allocation compared to other hospitals of similar size but which are not even on the same radar, will get the recognition it deserves in terms of specialties and allocation. I hope the consultant dermatologist vacancy will be filled and the second post which has been approved will be located in Mullingar. I fought hard for that consultancy but they could not find enough money and consequently the person who came left. All of a sudden, abracadabra, money was found for a second consultant.

Will the Leader have a debate on the HSE? I await with bated breath the outcome of Professor Drumm's visit to Mullingar.

Senator Eugene Regan: I wish to mention an article in *The Irish Times* today with the headline "Arthur Cox appointed banking adviser without tender". The matter was raised in the House before. This firm is advising NAMA following a tender which was recently awarded. It

is also advising the Minister for Finance, Bank of Ireland and developers on NAMA. I am not sure we have learned any lessons in regard to independence, avoiding conflicts of interest and having the same people carry out the same type of work and make decisions on our behalf.

There is a serious question mark over the Minister retaining this firm without any new public tender. It is wrong and is contrary to EU public procurement rules. Last September there was justification for engaging this firm on grounds of urgency and one can avoid the full rigours of EU public tendering requirements in such circumstances. However, to continue that contract with, or to award a new contract to, that company without a tender is completely in breach of EU law. I ask that the Minister for Finance address that issue on the next occasion he comes to the House.

The Minister for Justice, Equality and Law Reform is attempting to restrict legally held firearms in the Criminal Justice (Miscellaneous) Provisions Bill 2009 which is going through the Lower House currently and will come back to us. That will disrupt a sport in which no problems have arisen. Many people enjoy this sport and have procedures to safeguard their arms which are licensed.

The Minister for Defence cannot safeguard firearms in the custody of the State. Grenades and a gun have been stolen from Limerick Army barracks. It is unfortunate that such an incident can occur. Will the Minister for Justice, Equality and Law Reform identify what other arms of this nature in the custody of the State have disappeared in this way?

Senator Labhrás Ó Murchú: The trade union movement has played a monumental role in the development of the economy, the creation of employment and, above all, in ensuring stability in industrial relations. We still have a significantly high level of employment but the challenge facing us is to ensure those jobs are protected and to create new jobs where possible.

We should acknowledge the courage shown by a number of trade union leaders in these difficult times. They have seen the benefits of social partnership. In better times when that process was being moved forward, we tended not to question the fact the social partners were in touch with Government because we saw the benefits of it. It is possibly more important now that that process continues. It is good to know the social partnership talks are still taking place. I hope they will be elevated to a new level and that there is the possibility of a new national agreement.

There is a greater understanding now of where we are and the opportunities which can exist in the future. When the first difficult decisions were made, there was much disappointment in the community ending in anger. We now know we have no choice but to make hard decisions. However, if those hard decisions do not lead to positive results, people will not be happy. The only chance we have to do that is through the social partners working with Government. If we do not have stability in industrial relations, it will undermine all our plans. There is no prospect of an investor taking an investment opportunity if there is not stability in the country in terms of industrial relations.

Senator Dominic Hannigan: I join Senators in calling for a debate on small businesses and with Senator MacSharry's call for a debate on extending entrepreneurial skills because, as we have heard and agree, it is by growing our small businesses that we will see more employment and the country coming out of this recession.

The latest survey by the Irish Small and Medium Enterprises Association is worrying news. It shows that 80% of small businesses have suffered a fall in sales recently, four out of five expect to see a cut in the number of their employees and two out of three have said they are in danger of closure unless there is a change in the current economic climate.

[Senator Dominic Hannigan.]

Some sectors of the economy are particularly affected. I know of small architectural, engineering and town planning firms which are in serious difficulty because of the downturn in the construction sector. This morning's announcement that the Government will make some money available to support employment in the economy is welcome news. I would like a debate on how we can ensure employment is preserved in small businesses and, if possible, increased.

Senator Larry Butler: I call for a debate on education, which would be timely. The teaching of English to foreign students is making a fine contribution to the country. We could certainly increase the number of foreign students coming here as it is worth approximately €800 million to the country. For example, Britain and New Zealand have increased the number of foreign students going to those countries to learn English. This is worth €8.5 billion to Britain and €4 billion to New Zealand, a country similar to Ireland. This area should be developed immediately. It would also benefit other sectors of the community. Will the Minister for Education and Science come to the House to discuss this matter?

It appears we are very strict when it comes to allowing people come to this country, which I understand. However, we have a much tighter visa system than the UK and it is time we looked at how we assess these people who want to come here to learn English. This is the way forward in terms of upskilling people in the education system.

Senator Paul Coghlan: Last week the Leader undertook to brief the House yesterday on the remaining legislative programme. I understand he may have given a briefing to the group leaders. We all know how important our economic recovery is but, sadly, the Government is currently impeding that possibility by continuing to procrastinate in regard to NAMA. I believe it has received a legal framework and advice. Did it sign off on it yesterday? Is the publication date for the legislation still set for 4 July? I do not know what the Leader told the leaders. However, we all know the markets abhor uncertainty so the Government should arrange for that legislation to be processed through both houses in July rather than wait until September.

Senator Ivor Callely: I support the call for a debate on the economy. I have raised the two issues of concern facing the country, namely, matters relating to the economy and to finance and banking. I asked the Leader to discuss this matter with the other leaders and agree a schedule in order that we could have a regular debate to ensure we are up to date on these issues.

Senator MacSharry put forward proposals on the repossession of houses and yesterday I raised the matter of money available to small and medium sized enterprises. These important issues, along with the economy, should be on our agenda on a regular basis. I also want to raise the proposed reduction of fees to pharmacists. This morning I received a communication from a pharmacist stating:

I presume you know about the savage cuts in our sector to be imposed from the 1st of July next. While I am prepared to accept a percentage of cuts like many others at this time, it seems grossly unfair that while other health care professionals, e.g. GPs, optometrists, dentists, etc, get an 8% reduction in their fees, community pharmacists get up to four to five times this percentage of cuts. I feel this is...vindictive in light of the recent court ruling against the HSE. The Minister for Health [and Children] formed her own review body that made recommendations which were then subsequently ignored. I believe that says it all...

I strongly urge you and all your colleagues...to reverse this penal decision before the whole community pharmacy service is forced to collapse.

I have a problem with the HSE and have said so on many occasions. It has made many errors. I believe the one administrative authority that should manage our health and social services——

Senator Jerry Buttimer: Who set up the HSE?

Senator Ivor Callely: It goes back a long way.

Senator Jerry Buttimer: It was the Senator's Government. He cannot have it both ways. It is either one or other — he is either in Government or not.

An Cathaoirleach: The Senator's time is up.

Senator Jerry Buttimer: Senator Callely is either in Government or not.

An Cathaoirleach: No interruptions.

Senator Ivor Callely: If Senator Buttimer wants to look at the record, this goes back——

Senator Jerry Buttimer: We are tired of this theatre.

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

Senator Ivor Callely: ——over many Administrations.

An Cathaoirleach: I call Senator Norris.

Senator David Norris: I will respond to the Cathaoirleach's call. I welcome criticism of the Government from within the Government.

Senator Ivor Callely: I challenge Senator Buttimer any day on the record of all previous Administrations.

Senator David Norris: It would be much more convincing, however, if occasionally it was criticism of the main Government parties rather than the satellite ones which routinely get attacked from that side of the House.

While I support the calls for a debate on Iran, it is important it is treated sensitively. The Iranian authorities are manipulating the situation, claiming that the whole series of demonstrations are being inspired and manipulated from outside, particularly by Britain and America. We need to be careful of that.

I compliment Senator Regan raising the issue concerning Arthur Cox. I have spoken about it in the past and I believe we are not aware of the seriousness of conflicts of interest. Arthur Cox is a large legal firm, the largest dealing with this particular area and may be the reason why the Government wishes to chose it. However, there are radically different interests involved in estimating the size of debt, the values of property and those between the Bank of Ireland and the Government on behalf of the people.

I call for a debate on planning. Inspired by the Irish Georgian Society, I recently objected to a planning application for a development at Donaghcumper Demesne which will comprise the classic estate of Castletown, County Kildare. The appeal was rejected and I received a notice which intimidatingly pointed out that I may appeal the decision but it would cost me. It presented a scale of fees, the first of which is between €4,500 and €9,000. That principally applies to a developer but it is deliberately intended to intimidate. The very lowest at which I could appeal this decision is €200. This is deliberately intended to intimidate and prevent citizens from asserting their rights.

[Senator David Norris.]

In light of widespread rumours around the House, will the Leader confirm that the Government intends to publish the civil unions Bill this Friday? If so, will he give a timetable for its hearing in the House?

Senator John Hanafin: Many Members will welcome the fact that people will no longer go to prison for the non-payment of small amounts to financial institutions, as pointed out earlier by Senator Quinn. In its own way, this will lead to financial institutions looking for further security, making it more difficult to get loans. This may not be a bad development in cases where people might have difficulties.

However, as pointed out earlier there can be anomalies. Will the Leader request clarification from the Minister for Justice, Equality and Law Reform on these? Where maintenance is due to families, it is often in lieu of other payments the State would give. In many cases it is the only source of income. It is vital to ensure the threat of prison remains for non-payment of maintenance.

I also support the calls for a debate on the economy. I welcome the Government's announcement of a €250 million job retention programme, particularly in light of the IMF's report this morning on the economy.

Senator Nicky McFadden: About time too.

Senator John Hanafin: We spoke in the House of a soft landing with 70,000 jobs to go in the construction industry but that the economy was well-placed for it. What happened, however, in the international sphere undermined the Irish economy. It was prudent management of the economy that prevented the IMF from coming in to manage it for us. The records will show the Government saved the economy.

(Interruptions).

Senator Ivana Bacik: That is some spin.

Senator Liam Twomey: The Senator is like the Mad Hatter.

Senator David Norris: I can just see the Government bursting into the room coming to our rescue.

An Cathaoirleach: Senator Hanafin without interruption.

Senator Frances Fitzgerald: Senator Hanafin should tell that to the unemployed on the dole queues.

Senator Liam Twomey: The economy is not dead at all. It is alive.

An Cathaoirleach: Senator Hanafin without interruption.

Senator John Hanafin: I am sure many Opposition Members will add significantly to what I have to say.

(Interruptions).

Senator Camillus Glynn: Well done Senator Hanafin.

Senator John Hanafin: For the past four weeks, I have been calling for the Opposition to outline how it would——

An Cathaoirleach: Senator Hanafin, your time is up.

Senator Eugene Regan: Time up.

Senator John Hanafin: Of course they want time up because they do not want to hear the question. When will the Opposition show how it would deal with the €20 billion deficit?

Senator Frances Fitzgerald: The Government only briefs to the social partners and not the Parliament.

An Cathaoirleach: I call on Senator Twomey without interruption.

Senator Liam Twomey: I hope when we debate economic policy that Mad Hatter thinking goes out the window so that we have some sort of a debate and not that rubbish.

An Cathaoirleach: Senator, please.

Senator Liam Twomey: My apologies a Chathaoirligh.

I support Senator Fitzgerald's call for a debate on the role of the Oireachtas. Questions to Ministers about the National Roads Authority, the Road Safety Authority, the Health and Safety Authority and the Health Service Executive are often replied with claims the Minister has no official responsibility for the body in question or they are diverted down a cul-de-sac from which no answer emerges. It is time to get over this Dublin Castle mentality and bring the power of the people back to the Houses of the people. No matter how many noble sentiments Government Members express about social partnership, I have no personal desire to be ruled by Dublin Castle. Social partnership discussions should be held in both Houses, not behind closed doors in Dublin Castle. Instead, the Government has neutered this Parliament.

I am no bleeding-heart liberal but the idea of jailing people because they do not pay a fine or maintenance payments is backward and stupid. If we are not capable of coming up with another mechanism of ensuring such payments, we are a pretty foolish lot supporting the idea of debtors' prisons continuing in the 21st century. We must explore other means of getting these payments. Most of those concerned have direct payments from either an employer or the State. There are means of securing payments through these rather than this nonsensical notion of throwing people into prison.

Senator Mary M. White: I support my colleagues on the role of prisons and people being imprisoned for non-payment of debts. On Monday I visited St. Patrick's Institution, the prison for young boys aged between 15 and 21 years. Up to 60 children, aged between 16 and 17 years, are in prison there. How we re-integrate people who were in prison into society must be debated in the House. Last week, I attended a wonderful conference in Dublin Castle on re-imagining the role of prison in society, particularly with traditional forms of penalising people and a 60% recidivism rate.

I was, however, impressed by the changes brought about at St. Patrick's Institution. Thanks to Mr. Justice Dermot Kinlen, who valiantly stuck his neck out to challenge the then Minister for Justice, Equality and Law Reform, Michael McDowell, there is a more enlightened approach to the treatment of young people in prison.

I spoke to 30 young people there who are being taught trades such as carpentry, as well as art, computers and music. Each person to whom I spoke had brilliant social skills. They were

[Senator Mary M. White.]

able to communicate with me much better than can many of their contemporaries who come from well-off families. These were children of gang members from Limerick and Ballymun. On an individual basis, I was very impressed with the governor, Mr. Sean Quigley, and the director of operations——

An Cathaoirleach: No names please.

Senator Mary M. White: ——Mr. Willie Connolly. I call for a serious debate on the role of prisons in society. My final point is that St. Patrick's Institution, in which young people are imprisoned, will be moved in two years' time to Lusk. It will be a detention centre at which there will be a real focus on rehabilitation.

Senator Ivana Bacik: I support Senator Mary White's call for a debate on prisons, which is long overdue. The work of the Irish Penal Reform Trust to which she referred has been important in generating debate on prisons and on the need to ensure alternatives to custody. It must be stressed that there are other ways——

Senator Fidelma Healy Eames: Hear, hear.

Senator Ivana Bacik —— to impose sanctions on those who fail to pay debts or fines.

Senator David Norris: Well said.

Senator Ivana Bacik: Prison is not the appropriate method. St. Patrick's Institution, which Senator Mary White mentioned, has been recommended for closure for more than 20 years. It is recognised internationally as being an inhumane institution in which there is almost no prospect of rehabilitation for its inmates, who tend to go on from there to the adult Mountjoy Prison. While on this subject, I have visited Mountjoy Prison many times and have raised the issue of the appalling conditions there many times. It is utterly inhumane that in 2009, adults still are slopping out in their own overcrowded cells, which were designed for one person.

I ask the Leader for a debate on this issue as a matter of urgency, especially in light of recent reports to the effect that the move to Thornton Hall apparently may not go ahead or will be delayed, in which case people will be living in such dreadful conditions in Mountjoy Prison for much longer than was anticipated. I also seek a debate on the need for additional prison places at Thornton Hall. While the conditions there will be better, this will represent an unfortunate step in that it will greatly increase the number of prison places available at a time when Members should be debating the need to lock up so many people in institutions in which there is so little prospect of rehabilitation.

I also renew the call I made yesterday for a debate on Iran. All Members should be deeply concerned about the brutal oppression of peaceful demonstrations. Clearly, it is not up to any Member to support a particular politician in Iran. However, all Members should be concerned about the manner in which the regime is putting down demonstrations.

Senator David Norris: Hear, hear.

Senator Ivana Bacik: I refer in particular to the dreadfully distressing pictures that are widespread on the Internet, of a young woman, Neda Soltani, who apparently was shot point-blank by government forces as she simply stood on the sidelines of a demonstration. The Iranian ambassador should be called in and the Minister for Foreign Affairs should express his concern.

An Cathaoirleach: The Senator's time has expired. I call Senator Walsh.

Senator Ivana Bacik: I ask the Leader to invite the Minister for Foreign Affairs to the House in order that Members can ask him to so do.

Senators: Hear, hear.

Senator Jim Walsh: I support those who have called for a debate on the economy. The imminent publication of the report by the IMF may provide Members with a platform on which to base such a debate. There are three strands to the economic situation in which we find ourselves. One is the banking crisis, obviously, and it will be very difficult, even despite the National Asset Management Agency, NAMA, to get credit flowing in the short to medium term. Moreover, this probably will be the experience globally. Second, the fiscal issue constitutes a major challenge to the Government. While this reflects what is happening in many other countries, it is much more acute in Ireland because of the disparity between income and expenditure. Such a debate must focus on public sector pay as there is no way to correct the public finances without addressing serious issues and reductions in that regard. Moreover, it will mean, however unpalatable it might be, considering how scarce resources are applied within the social welfare system in order that they are targeted at those who are most in need.

A third element, which appears to be playing out in the debate among the social partners at present, pertains to the injection of a stimulus package to try to protect and preserve jobs within the economy and to try to provide an impetus to returning to some form of growth in the short term if possible. I suggest that given resources are so scarce, one way of acquiring the €1 billion that is being sought would be to suspend the benchmarking awards, from which all Members have benefited, for a period of three years. Were benchmarking suspended across the public sector, the moneys saved could be applied and one might secure a buy-in from many people within the public sector to participate in this regard. Such a stimulus package is needed because a recent report showed that the growth rate in China, where there has been a massive injection of funds in an effort to stimulate the economy, will be between 6% and 8% this year. Moreover, predictions have been made that the United States may see an upturn on foot of its stimulus package. However, Europe, which has not followed that line, may lag behind somewhat. A debate in this regard would be useful.

Senator Jerry Buttimer: At the outset, I wish to ask three specific questions which the Leader might address in his reply. First, I echo Senator Norris by asking whether the civil union Bill will be published this week and whether the Leader has a timeline for it. Second, in his response to the Order of Business, the Leader should tell Members which Government and which Minister established the HSE.

Senator David Norris: Hear, hear.

Senator Jerry Buttimer: I am confused by Senator Callely's contribution as to who was responsible for its creation. The Leader should respond because Senator Callely should have stated that given the rationalisation or, as the HSE put it, the reconfiguration, which really means cutting services, a debate on health is required.

While I respect of the ruling of the Chair and am not being in any way disrespectful, I have attempted unsuccessfully to raise matters on the Adjournment regarding the National Roads Authority, NRA, as did Senator McFadden this morning. Who is responsible for the NRA? As Senator Twomey asked earlier, what recourse do Members have to question the NRA, to examine the roads programme or to consider the cuts it has introduced thereto? Parts of Ireland are grinding to a halt from traffic gridlock because the NRA has either put on hold or abandoned roads building programmes. I refer specifically to the Bandon road and the Sarsfield

[Senator Jerry Buttimer.]

Road roundabout in Cork city. A debate on this subject at the Leader's earliest convenience would be welcome.

Finally, I seek a debate on social partnership. I am a fan of social partnership which is needed now more than ever, given the recession. The Government should take on board Senator Fitzgerald's views and include both Houses in the new type of social partnership. I appeal to both employers and unions to put aside vested interests and to take on board the views expressed yesterday by Dr. Whitaker, namely, that a job saved is better than a job lost. A debate on social partnership is urgently needed.

Senator Pearse Doherty: Ba mhaith liom iarraidh ar an Cheannaire díospóireacht a reachtáil maidir le todhchaí na Gaeilge, go háirithe maidir leis an nuachtán *Foinse*, agus na himpleachtaí a bhaineann le todhchaí an nuachtáin sin. Ag trácht ar an am deireanach a thóg mé an cheist seo, gabhaim leithscéal leis an Chathaoirleach toisc nár éist mé leis an rialú a thóg sé ar an lá sin. Níor thuig mé go bhfuil rialú úr ann ó thaobh dhá nóiméad cainte.

Ba mhaith liom fosta go n-úsáidfí an Ceannaire oifig s'aige leis na seirbhísí uilig a tharraingt le chéile. I refer to the flash flooding which took place in my own village and townland yesterday in Gweedore. I dropped the boys up to the crèche yesterday in their shorts, t-shirts and sandals but by the time I reached Dublin, serious flash flooding had taken place. People still are trapped in their houses this morning, bridges have collapsed, churches and youth clubs have been completely submerged and businesses have been severely damaged. As one tries to deal with the aftermath of such an event, one problem is that one is obliged to contact the Departments of Transport, the Environment, Heritage and Local Government, Community, Rural and Gaeltacht Affairs and Agriculture, Fisheries and Food.

Unfortunately, this is not a new phenomenon, as this has happened repeatedly and has become all too common and frequent in recent years. A multi-agency response in this regard is required. It should be established on a permanent basis to react if such an incident happens. This was not the fault of any politician and I do not blame the Government for it. However, people should be able to telephone an agency to report that an issue has arisen. One should be able to state that bridges must be built, youth clubs must be restored, the fire brigade must be deployed and additional money must be made available to the local authority and that the Department of Finance must become involved. One should be able to report that farms have been wrecked and flooded to a one-stop shop that exists to deal with such natural disasters. I appeal to the Leader to engage with the relevant Departments. He should use his offices to bring this about. Urgent action is needed to help the people of Gaoth Dobhair. I am sure there will be many similar events in the years to come. It is sad to listen to the stories of people who are trapped in their houses and do not know what is happening. If they were given information to the effect that there would be a rapid response, that would give them some comfort.

Senator Nicky McFadden: I am not happy that the Cathaoirleach has sent me a letter to the effect that a road project in County Westmeath is the responsibility of the NRA rather than the Minister for Transport. Like some of my colleagues, I am not sure who is really making the decisions in this area. Last Friday the Leader and I attended a meeting at which this matter was discussed. As we listened to the discussion, we learned that the NRA had refused to meet Westmeath County Council to discuss the road project. It is outrageous that we do not know to whom bodies such as the NRA and the HSE are answerable. How can we get things done when we do not know who is responsible? As some Members are aware, work on the bypass in question will be ready to proceed as soon as €800,000 has been provided to finish it. That money was allocated, but we do not know what happened afterwards. What is the story?

I am glad Senator Glynn finished his remarks about Mullingar Regional Hospital by saying he was waiting with bated breath for Professor Drumm to come to Mullingar. He is right to be waiting with bated breath, considering the way the professor and his HSE colleagues have done everything in their power to downgrade the colposcopy, sexual assault and dermatology units at the hospital. The HSE is constantly trying to withdraw services from it. If I were Senator Glynn, I would not be as upbeat about the matter. I would be imploring the Minister, Deputy Harney, to take action. The Government which has been in power for many years should ensure there are no further downgrades. I will conclude by reminding Senator Glynn that the dermatologist he mentioned did not stay at the hospital because there were no backup services, no registrar, no facilities and no resources to support her.

An Cathaoirleach: I remind Members to ask questions of the Leader rather than making comments across the floor of the House to other Members.

Senator Donie Cassidy: Senators Fitzgerald, O'Toole, McCarthy and Buttimer expressed serious concerns about the HSE and I fully agree with much of what they said. I will have no difficulty in submitting a request to the Minister for Health and Children to update the House on all health services, if possible before the summer recess.

Senators Fitzgerald, O'Toole, MacSharry, Healy Eames, Callely, Twomey and Walsh outlined their opinions on pension funds, social partnership and the economy. I agree with everyone who spoke in favour of social partnership. The social partners, in tandem with the Government and everyone concerned, gave us both phases of the Celtic tiger. They brought about the successful economy and the wonderful country we have today. The global challenges we face have been frequently mentioned. One of these challenges is presented by the fear of the unknown. If things are not happening in America or other western countries, Ireland is at a considerable disadvantage as a country that exports between 85% and 90% of all its produce.

Senator Fidelma Healy Eames: The Leader is talking himself out of it.

Senator Donie Cassidy: We need to bear all of that in mind. I welcome this morning's announcement that €250 million will be provided for job retention measures. Given that the IMF report is imminent, this an ideal time to have a debate on these matters and I hope we will have an opportunity to do so before the summer recess. The Minister for Finance will be in the House tomorrow. I remind Senators that he was here on 28 May. I look forward to hearing my colleagues' contributions tomorrow when we will have a long day of important business. The legislation we will be considering is important because a sum of €4 billion is at stake. When the Financial Measures (Miscellaneous Provisions) Bill 2009 is presented to the House tomorrow, I am sure Members will avail of the opportunity to tease out their concerns about the current state of the economy. I commend the Taoiseach and the leaders of the unions, the farming organisations and IBEC. I agree with Senator O'Donovan that the fishermen should not be left out, as they represent an area of industry with huge potential.

Senator Michael McCarthy: Hear, hear.

Senator Donie Cassidy: Perhaps the Fianna Fáil parliamentary party will discuss how progress can be made in that regard. There is a huge responsibility on everyone, particularly the leaders I have mentioned, to make progress with social partnership. I will allow the longest possible time for a debate on the matter. I will also consider Senator Hanafin's proposal that the various parties should have an opportunity to give the nation the benefit of the wisdom of their latest policies as we fight the challenges with which we are confronted. I have already informed Senators that the House will sit until 10 July. Perhaps we will have to sit for one or two days

[Senator Donie Cassidy.]

the following week to allow time for these urgent and serious issues to be debated in the House, a matter I am considering.

I fully agree with Senators O'Toole, Norris and Bacik who have called for a debate on Iran. It is appalling that a 26 year old woman lost her life, unfortunately, in front of the cameras. We all saw the footage on our television screens. I will have no difficulty in setting time aside for a debate on the matter.

I will pass on Senator McCarthy's views on the increase in fuel prices to the Minister. He is aware that such prices are controlled by global forces.

Senators MacSharry and Hannigan brought our attention to the report on the need to encourage entrepreneurship. One of our colleagues has been closely involved in that process. However, everyone should be involved in generating and incentivising innovation, creativity and intellectual property. In the last ten or 11 years Ireland has been a shining example to the world in this regard. It is now time to reflect on the issue in order that new ideas can be fostered. We need to meet the challenges being posed by countries such as Singapore which are looking for the same business as Ireland. We can refer to issues such as upskilling during our debate on the economy. Perhaps more than one Minister will be present for the discussion. It may be possible for three Ministers — the Tánaiste and Minister for Enterprise, Trade and Employment, the Minister for Finance and the Minister for Education and Science — to contribute to the debate. Such a debate is necessary if we are really serious about making a contribution before the summer recess.

I assure Senator Healy Eames that I intend to invite the Minister of State, Deputy Barry Andrews, to the House to update Senators on the efforts he is making to resolve the issue with Vietnam that she mentioned. However, I do not want anyone to form the impression that a preconceived deal is imminent. The Minister of State intends to spend a week in Vietnam as part of his genuine efforts to do whatever is humanly possible to address the issue that is the reason for his visit. I intend to ask him to come to the House before the summer recess, if possible, to update Members on the matter.

Senator Healy Eames and others spoke about the study of early school leavers that is taking place. It is very welcome and I am keen to be kept up to date on the matter. When it has been completed, I will allow time for it to be discussed in the House.

Senator O'Donovan spoke about the serious challenges facing the fishing industry. A serious job needs to be done by everyone concerned, including the social partners, during the discussions on the Common Fisheries Policy. I have every confidence in the fishing industry and have already given a commitment to provide time for a debate on it in the House, if possible before the summer recess.

Senators O'Donovan and Glynn called for an urgent debate on the condition of the electoral register. Yesterday I gave Senator Glynn a commitment to discuss the issue after the summer recess. I have often said the men and women of the postal service would be the best people to compile the register, as they are the first people in every parish and street in the country to know when someone moves to a new address. They know who is living in every house. I think we should consider asking them to compile the register on a pilot basis.

Senator Joe O'Toole: Absolutely.

Senator Donie Cassidy: I am speaking on the basis of my considerable experience in this area in my former place of work.

Senator Quinn spoke about organ donation which I am delighted to hear is on the increase in other countries. I urge Senators to do everything they can to address and discuss the matter. Perhaps I will raise the issue at next Tuesday's meeting of party leaders. I am aware that every Member of the House supports organ donation.

Senators Quinn, Hanafin and Twomey raised the issue of the threat of a jail sentence for the non-payment of debts and for the non-payment of family maintenance, payments which are necessary and urgently required by the families concerned. Regardless of the difficulty involved and while we do not believe that sending a person to prison is the answer to everything, there must be fear in terms of the threat of the application of the law. We must do whatever we can to retain that fear to make people accountable, particularly in respect of the maintenance payments. We must protect and support women who are single-handedly rearing families.

Senator Glynn pointed out that the CEO of the HSE will visit Mullingar regional hospital today and speak to the staff in all sections there. I commend Senator Glynn on arranging this visit. I wish the CEO well on his visit to one of the top three performing hospitals in the country. I am proud and privileged that it is located in our area. Senators McFadden and Glynn come from the same area. The Cathaoirleach and Senator Glynn both served as chairmen of the former Midland Health Board and I was a member of it for 18 years. It is wonderful to have such a successful hospital in the midlands region. The Minister, Deputy Harney, has said on the record of this House that she would reward those hospitals that produce returns in terms of standards of care and exercise financial responsibility in the handling of their budgets, as Mullingar regional hospital has done.

Senator Nicky McFadden: It is not being rewarded.

Senator Donie Cassidy: I did not interrupt the Senator.

An Cathaoirleach: No interruptions, please.

Senator Donie Cassidy: When walking into Mullingar hospital to visit a patient one feels delighted and proud that it is one of the best hospitals in the country. I compliment and commend all staff from the administrator down, including consultants and nurses, on the commonsense attitude that has been taken in the hospital. We are watching with baited breath to see how the Minister will reward Mullingar hospital. As one, if not the only one, who on being elected a TD played a leading role in having a shelled out building developed to accommodate the hospital that is in place today, fully occupied——

Senator Nicky McFadden: Part of it is empty.

Senator Donie Cassidy: It is fully occupied.

Senator Nicky McFadden: Part of it is still empty.

Senator Donie Cassidy: I know what is happening in Mullingar. The Senator may know what is happening in parts of Athlone, but I can tell her what is definitively happening in Mullingar. I am not part of the whingeing brigade that comes out of County Westmeath; I am and have always been part of the positive element.

Senator Fidelma Healy Eames: Does the Leader speak like that at meetings of his parliamentary party?

An Cathaoirleach: Allow the Leader to reply to the Order of Business.

Senator Donie Cassidy: I have given credit where it is due to every political party on the Order of Business of this House, but the facts speak for themselves. I reiterate the extending of congratulations to Mullingar regional hospital on being one of the top three performing hospitals in the country.

I will pass the strong views of Senators Regan and Norris on to the Minister concerned in regard to tendering.

On the issue of the illegally held firearms and the ammunition missing from the Army barracks in Limerick, this can be addressed when the Bill due to be debated will be taken in the House. Such stealing of arms is alarming to say the least.

Senator Ó Murchú spoke of the high level of employment with some 1.7 million people in employment at this time of serious economic difficulties prevailing worldwide. It is a magnificent achievement. Some 600,000 more people are in employment than were in employment in 1977 or in the period from 1983 to 1987. That is an incredible achievement and it must be commended.

Senator Jerry Buttimer: The Leader should give the unemployment figure.

Senator Donie Cassidy: Having 450,000 unemployed——

Senator Jerry Buttimer: The Leader should check the unemployment figure.

Senator Donie Cassidy: I would not like to see the Senator in the queue. I know he is moving on to a higher place. We will do everything we can to assist those who need upskilling and encouragement to gain employment in the future. We will have a debate on all issues related to employment. When we have a debate on the economy, this matter can be discussed, as I said earlier.

Senator Buttimer called for a debate on education and opportunities, particularly for those who wish to come to this country to learn English. Given the skilled teachers in this country, there is a great opportunity for such learning. I do not see why those who want to come to this country from Japan, China or elsewhere in the world——

Senator Fidelma Healy Eames: The Leader should ask the Minister for Justice, Equality and Law Reform about that.

An Cathaoirleach: There should be no interruptions.

Senator Donie Cassidy: I am responding to the Order of Business.

An Cathaoirleach: The Leader is responding to the Order of Business.

Senator Fidelma Healy Eames: I know, but the Leader has not listened to the wider debate on this issue.

An Cathaoirleach: I ask the Senator not to interrupt. Any Senator who continues to interrupt will have to leave the Chamber.

Senator Donie Cassidy: I fully support the call for such a debate.

Senator Fidelma Healy Eames: We have had many calls for a debate on this issue and we have had Adjournment debates on it, but nothing has been done about it.

An Cathaoirleach: No interruptions please.

Senator Donie Cassidy: I know the Senator comes from the teaching profession. She will have to lead by example. We would appreciate that.

Senator Fidelma Healy Eames: The Leader should stop being patronising; it does not suit him.

Senator Donie Cassidy: If the Senator does not know how to take a compliment, well I just do not know.

Senator Nicky McFadden: And I am whinger.

Senator Fidelma Healy Eames: That is a very sexist comment as well. The Leader is talking down to us.

Senator Donie Cassidy: I will outline to the House on the Order of Business next Tuesday the approximately 11 Bills to be considered before the summer recess.

I wish Senator Coghlan well, I hope he is okay. We all like the Senator and he is great friend to us all. We wish him well.

Senator Callely raised the proposed reduction in fees to pharmacists. I have expressed my concern about this here yesterday. This matter can be debated with the Minister when we have a debate on the HSE. I will pass the Senator's strong views on to the Minister.

Senators Norris and Buttimer called for a debate on planning fees and I have no difficulty in setting time aside for such a debate.

It is hoped that the civil union Bill will be published at the end of this week. I am endeavouring to ensure it will be taken as a matter of urgency along with the other legislation to which I referred.

I will outline to the House next Tuesday the timeframe for taking the various Bills. I indicated to the leader of the groups after the Order of Business last Thursday our work schedule from now until the summer recess. I will present the definitive list to the leaders of the groups before the Order of Business next Tuesday and then to the House on the Order of Business. That concludes my responses to the Order of Business.

Senator Nicky McFadden: What about my question on the NRA?

Senator Maurice Cummins: On a point of order, did the Leader forget to announce a sos? No sos is scheduled between noon and 5 p.m. Is it planned to have a sos?

An Cathaoirleach: The Leader indicated that.

Senator Donie Cassidy: A sos is scheduled from 1.15 p.m. to 2.15 p.m. I said that on the Order of Business.

Senator Pearse Doherty: On a point of order, I would like responses to the two issues I raised concerning *Foinse* and the need for a multi-agency response to the flash flooding in my area.

An Cathaoirleach: That is not a point of order, it concerns the content of the Leader's reply.

Senator Pearse Doherty: The Leader should inform the House of his response to a request made yesterday by Senator MacSharry concerning Sligo General Hospital.

Senator Nicky McFadden: I asked a question about the NRA.

An Cathaoirleach: We cannot take any more requests.

Senator Donie Cassidy: My apologies, I forget to read page seven of my responses. As I said, Senator Hanafin had replied to the matter of an independent audit from the parties.

Senators Mary White and Bacik called for a debate on prisons and I have no difficulty in arranging for this to take place. Senators Buttimer and McFadden called for a debate on the NRA. I can definitely agree to have a debate on that. To be helpful to my colleague, Senator McFadden, I will arrange for Senators Glynn, McFadden and myself to meet the NRA on the works in respect of the Rathconnell-Turin road, which is only a few miles away from Senator McFadden's residence in the county.

I fully agree with the sentiments Senator Doherty expressed regarding the plight of the poor people affected by the flash flooding in Gweedore and the surrounding area of Donegal yesterday. Our hearts go out to them, particularly to those businesses which were expecting two good months of business during the peak of the tourism season. It is a difficult time for anyone in a business but it is devastating for this to happen to those business people in the county. I hope we can do everything possible to assist them. The suggestion that an agency should be set up is a good idea. We will see what we can do to progress that.

An Cathaoirleach: An amendment has been proposed to the Order of Business by Senator Fitzgerald: "That a debate on the economy be taken today." Is the amendment being pressed?

Senator Frances Fitzgerald: Yes.

Amendment put.

The Seanad divided: Tá, 23; Níl, 24.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.

McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.

Hanafin, John.
MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

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

Amendment declared lost.

Order of Business agreed to.

Nursing Homes Support Scheme Bill 2008: Report and Final Stages.

An Leas-Chathaoirleach: I remind Senators that they may speak only once on Report Stage, except the proposer of the amendment, who may reply to discussion on the amendment. Also on Report Stage, each amendment must be seconded.

I welcome the Minister of State, Deputy Áine Brady. Amendment No. 1 is in the names of Senators Norris and Bacik and arises out of Committee proceedings.

Senator David Norris: I move amendment No. 1:

In page 8, line 8, after “thereof,” to insert the following:

“identified in the care needs assessment as necessary,”.

Senator Phil Prendergast: I second the amendment.

Senator David Norris: I believe these amendments may be dealt with expeditiously. One or two I will withdraw but I look forward to the Minister of State, as she indicated on Committee Stage, being in a position at least to accept the principle and perhaps supply her own wording for some of the amendments. Preparatory to that, I received a communication
12 o'clock that suggests some sections of the Bill have been changed since our last discussion. The communication came from concerned proprietors of nursing homes, who indicated the changes were made without consultation either with them or the Oireachtas. When it comes to that point, perhaps I shall refer to that again.

Also, I regret the Bill does not deal completely with some of the situations that were referred to. I say this particularly because coming here today I was, once more, solicited half a dozen times, and by a charming young woman on one occasion who said, “Hello, my name is Kerry and have you thought of contributing to” such and such. I replied that I had not and that I was not going to while indicating that we were talking about this today in the Seanad. I know the Minister of State has indicated that the Garda will be given the right to license flag days and so on, but in my view they should be confined to one day for every major charity.

In any event, the amendment refers to page 8, line 8, after “thereof,” to insert “identified in the care needs assessment as necessary,” and I understand I will have an opportunity to come back on this, when I have heard the Minister of State’s response.

Minister of State at the Department of the Health and Children (Deputy Áine Brady): The Bill currently defines long-term residential care services as “maintenance, health and personal care services” and further stipulates that the precise goods and services which constitute maintenance, health and personal care services shall be laid before the Houses of the Oireachtas by the Minister for Health and Children — sections 3(1) and 33(2).

The Senators’ amendment would introduce a contradiction into the legislation whereby on the one hand, the definition would be based on the comprehensive and complete list of goods and services laid before the House, while on the other, it would comprise any matter or service identified in any individual’s care needs assessment. Thus, the definition would suffer from internal contradiction. The proposal would reconfigure the definition, making it both completely open-ended and constantly changing, depending on each individual care needs assess-

[Deputy Áine Brady.]

ment. This undermines the Minister's ability to fulfil her commitment under section 33(2) and would therefore be unworkable from a legal perspective.

Furthermore, the definition of long-term residential care services, including the list of goods and services laid before the Houses, forms the basis for the published cost of a public bed and the agreed price of a private bed. The State will not be able to publish and stand over the cost of a public bed if the basis for the costing is a moveable feast contingent upon a future care recipient's care needs assessment. Similarly, the NTPF and the private nursing homes will simply not be able to negotiate effectively if the services that are provided are not clearly specified and agreed.

In addition, I understand from the Age Action Ireland policy document, from which this amendment stems, that the underlying purpose of the amendment is to include therapy services implicitly within the definition of long-term residential care services. However, as I stated on Committee Stage, the provision of and access to therapies is a matter which extends well beyond nursing home settings. As such, it must be addressed comprehensively by the forthcoming eligibility legislation. The Department of Health and Children is currently working on eligibility legislation. There is considerable confusion about what people are eligible to receive. In the context of therapy services, whether physiotherapy, occupational therapy, speech therapy, community based services or primary care, we need to bring greater clarity to the range of services available and to the issue of eligibility. The eligibility legislation is the appropriate place to deal comprehensively with this matter.

I trust the Senator will accept my very strong reasons for not being in a position to accept amendment No. 1.

Senator David Norris: I thank the Minister of State and understand her argument, particularly as regards the internal contradictions which we do not want. However, I should like to place before the Houses the reasons for proposing the amendment. The Minister of State is quite right in saying it derives from the brief of Age Action Ireland. The Bill, as it exists, proposes to inform people of long-term care needs and to place their needs into a care group and detail the costs of different aspects of care. It also promises to provide care services, defined as maintenance, health or personal care services. However, individuals will sign up to this deal on the basis of self-sufficiency. They will be partially responsible for the provision of their own care needs should therapy services be an additional, unforeseen expenditure for the Exchequer, and by this fact not affordable to the fair deal. It should have been explained to the public from the start. This funding mechanism does not allow for the capacity of individuals to make personal contributions towards services defined as additional that are very basic to their ability to participate in activities of daily living, such as talking.

I find that quite interesting and I accept what the Minister of State says about internal contradictions. She is right that despite the fairly general wording, "identified in the care needs assessment as necessary", it principally refers to services such as therapy. Could the Minister of State clarify a point for me? From Age Action's argument, which I have just read, it seems there is an implication that should a patient under the fair deal scheme or his or her advisers identify certain therapeutic treatments as necessary or beneficial, they will not be able to add them into the scheme even by paying for them. If that is the case it would be regrettable.

It is regrettable that there should be a two-tier system, but it is even worse if a person has an identified problem that can be met by a professional remedy and can afford to pay for it but cannot add that in. There is a strong argument in terms of the welfare of the patient that they should be permitted to do so. I do not approve at all of two-tier systems. We have a two-tier health system and I deplore that. However, within that two-tier system it is additionally

unfair, if my interpretation is correct, that without this amendment a patient with private means would be inhibited in accessing beneficial treatments. I hope I am wrong in that. The Minister of State will have an opportunity to demonstrate whether I am wrong. If I am right, there is still a serious problem in the Bill.

Deputy Áine Brady: The fair deal is only a scheme of financial support for long-term residential care. People with medical cards will retain them together with the entitlements those cards confer on them. People in a position to pay will be able to get service privately.

Senator David Norris: Does the Minister of State refer to extra stuff?

Deputy Áine Brady: Yes.

Senator David Norris: Even if they are part of the scheme in a public nursing home and they can afford it, can they get it in?

Deputy Áine Brady: Yes.

Senator David Norris: I apologise. I thank the Leas-Chathaoirleach. I know I am a little out of order.

An Leas-Chathaoirleach: Yes, you are.

Senator David Norris: I want to record to show that the answer to my question is “Yes”.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 2, 6, 9, 24, 27 and 28 are related. Amendments Nos. 7 and 8 are related and are alternatives to amendment No. 6. Amendments Nos. 2, 6 to 9, inclusive, 24, 27 and 28 may be discussed together by agreement.

Senator David Norris: Could I make a little point? I ask the House’s indulgence. Some of these amendments are technical and with such a large grouping we may need time to locate the position in the Bill. It is a large number of amendments spread across the Bill.

An Leas-Chathaoirleach: Is Senator Norris proposing we do not take them together?

Senator David Norris: I am not. I am saying let us be flexible if there are hesitations. Give us time, a Leas-Chathaoirleach. You are very flexible.

Senator Frances Fitzgerald: I move amendment No. 2:

In page 9, between lines 12 and 13, to insert the following:

““multidisciplinary team” means medical staff, nursing team, discharge coordinator, community services discharge liaison officer, dietician, physiotherapist, occupational therapist, speech and language therapist, pharmacist, social workers, public health liaison nurse, chaplain/spiritual advisor.”.

This amendment deals with multidisciplinary teams. What the Minister of State has just said about what is included in care is very significant. She appears to be saying only bed and board is included in the 15% that will be taken from people and that other services are not included. This debate will probably continue as we go on. The Minister of State said a person with a medical card is entitled to whatever services, but although we are taking 15% from other people, they are not entitled to services such as occupational therapy, chiropody or any other

[Senator Frances Fitzgerald.]

services elderly people might need. The Minister of State could return to that as her statement was very significant.

On Second Stage I asked the Minister of State to outline what “care” meant and what people were entitled to by virtue of giving up 15% of their homes, and she appears to be saying they are not entitled to any of the other services. It is linked to this amendment, which proposes the Minister of State name what a multidisciplinary team is. Age Action has done much work on multidisciplinary teams. As I said on Second Stage, the people we are talking about are generally high-dependency. The assessment should not be strictly physical. It needs to examine issues such as mental health and mental capacity. It should also examine the elderly person’s social and economic situation so a proper, holistic assessment can be made.

The Minister of State said “multidisciplinary” is not defined in the Bill. It is fraught with some difficulty on who should be included but it is worth trying to come up with a definition and we have suggested one in the amendment. We are not suggesting every person who is assessed needs to be seen by the entire multidisciplinary team, because they do not. The way the legislation is written allows that it would be the discipline appropriate to the case but that it would always be a geriatrician because that is built into the legislation. It is worthwhile building in a definition of a multidisciplinary team and ensuring people are assessed by the range of professionals that will make for the best assessment possible and the best outline of their care needs.

I am disappointed that even when the care needs assessment is done there is no guarantee the nursing home or care centre will receive it. It is still very flexible on whether they receive it. I respect issues of personal confidentiality but most residents would want their care needs assessment passed on so they would get the best possible care. Perhaps the Minister of State could address that in best practice regulations. We have discussed that before.

Where it is necessary, a multidisciplinary team assessment reduces the likelihood of mistakes and reduces subjectivity. We have had a long discussion in the House on the fact that what is proposed in this legislation is lacking independence. The Minister of State has not accepted, and made it clear she would not accept, any of the amendments to introduce some level of independence in making the care needs assessment or the financial assessment. The Minister of State has some minor amendment that addresses some of that in one area, namely, mental capacity.

Building into the legislation a definition of a multidisciplinary team would be helpful. By doing this and including it instead of “suitable person”, the Minister of State would maintain flexibility and right of access to the team by allowing the HSE, a geriatrician, the older person and their specified person a chance to outline in the care needs assessment application the professional assessment they may feel is necessary. If one accepts this amendment, it means one can include a social worker where necessary but by keeping section 7(5)(a) the Minister of State is keeping the principle of flexibility. One would get only the team members one needs. One does not need to have all members assessing each person.

Introducing a further section down the line allowing an appeal is keeping within the principle of guaranteeing older people access to a multidisciplinary team. I would be interested to hear the Minister of State’s response to this. It is helpful to name the potential members of a multidisciplinary team who might be called on. It ensures it is not a closed assessment by one geriatrician. It means the assessment is more likely to be comprehensive and in the person’s best interest because all his or her needs are being assessed, and therefore the best care plan can be made for that person.

Senator Paul Bradford: I second the amendment and fully support what I have heard from my colleague and leader, Senator Fitzgerald. Last week on Committee Stage I made the point to the Minister of State — whether she listened or heard I am not sure — that this Bill is a political challenge to her. She can decide just to process the Bill as hundreds of Ministers have processed thousands of Bills during the years in a bland administrative fashion or she can avail of the opportunity late in the processing of the Bill to make a significant lasting difference to elderly people. The amendments are not a party political challenge but a challenge to the Minister of State and her Department. They are also a challenge to the Houses of the Oireachtas to decide what future we deem suitable and necessary for elderly and maturing citizens. I fear the Bill may be a Trojan horse. It may not have been fully thought out and is simply being processed in the normal legislative fashion such that when it is passed, all these little anomalies will emerge.

I will be interested to hear the Minister of State's response to Senator Fitzgerald's question about what will be delivered to people in nursing homes for the 5%, 10% or 15% charge, which is a significant charge on their assets. When I was speaking to people at the weekend about our week in the Seanad, I explained that the debate on the Nursing Homes Support Scheme Bill had taken up a large proportion of our time. One or two people said they could not expect four star hotel treatment for €800 or €900 a week. My answer is that they should expect and demand it. If I offered any hotel a payment of €800, €900 or €1,000 a week, not just this week but also next week, next month and next year — perhaps for the next ten years — I would fully expect four or five star treatment. When the legislation is passed, I want us to be able to tell every senior and maturing citizen that we are providing not second or third class treatment and care but first-class care. That is why we need absolute clarification as to what is being provided for the fees which the taxpayer and the State and, more importantly, the elderly and their families will pay as opposed to what it might or might not be. I look forward to receiving that clarification.

I fully support what Senator Fitzgerald and others have proposed regarding the multi-disciplinary team approach and structure, which is crucial. We had a substantial and worthwhile debate on the matter last week. I was impressed by the contribution of Senator Mullen who spoke at some length. He made the very interesting argument about society trying to tell people what was best for them. Let me paraphrase his comments; I believe he made the point that the nursing home solution could be presented as appropriate because a person would be safe and secure with no threat of robbery, attack etc. However, in many cases, the elderly person concerned — I am not being patronising as it is generally elderly people who are involved — might prefer to live alone in conditions which might not be marvellous but perhaps more appropriate.

It is important to have a multidisciplinary examination of every case to arrive at the correct economic social and holistic solution for the applicant for care. Anything other than a thorough multidisciplinary examination of the circumstances of the applicant and his or her family would be second rate. We have been waiting for and talking about this legislation for long enough. I certainly do not want it to be second-class legislation for second-class citizens and simply push away a problem in the belief out of sight is out of mind. We must demand first-class accommodation and care for the elderly, regardless of whether it is in the home, the community, a nursing home or district hospital. There have been so many platitudes about what society owes the people who built the country. What we owe is what we owe and what we will pay back is covered in the legislation. It is a big political challenge for the Minister of State who I appreciate is new to the job. I do not say this in a patronising fashion, but it is an opportunity for her to make a real mark by making it clear the legislation will be world-class for the people who built the country.

[Senator Paul Bradford.]

I ask the Minister of State to be generous in her response to our amendments which nobody could claim are party political. Last week very interesting contributions were made from the Government side of the House. I accept that when we divide and vote, people need to fly the party flag. I believe what has been proposed from this side is very constructive, positive and holistic and represents the best approach. We need further answers from the Minister of State. I would not like the Bill to be a Trojan horse in that, once it is passed, we will regard it as being grand and that we will shut the door only to start finding problems a few months and years later when we will not be able to do any repair work.

Senator David Norris: While I have been enlightened by Senator Bradford's contribution, he is mistaken in his interpretation of classical mythology. Had the ancient Greeks said, "Thank you very much" and closed the door in the face of the Trojan horse, history would have been very different. Unfortunately, they were foolish enough to let it in. I could not resist saying that because it is such a charming rewriting of the myth.

The amendments need to be taken together and read in the context of the Bill. It is interesting that the Minister of State has tabled an amendment. Section 7(5) states:

The assessment referred to in *subsection (4)* shall be carried out by a person or persons (who may be an employee or employees of the Executive) who, in the opinion of the Executive, are suitably qualified to make that assessment and prepare a report in relation to the assessment.

The Government amendment, amendment No. 6, proposes to remove the phrase "by a person or persons (who may be an employee or employees of the Executive)" and substitute "by persons (who may be employees of the Executive)". The effect is to make it more general, which is interesting. I am curious to learn the Minister of State's rationale for so doing. I welcome the fact that she has tabled an amendment, but I am not sure of the motivation behind it.

Section 7(6) provides for an expansion of the meaning of "care needs assessment". It includes the person's ability to carry out the activities of daily living, including cognitive ability, the extent of orientation, etc. While this is a very useful checklist, it implies the existence of people who are professionally competent to make these assessments. I am surprised at the Minister of State's hesitation in using the phrase "multidisciplinary team", especially since the HSE actually stated some time ago that this was what was happening. While I will not rehearse everything I said on the previous occasion, I referred to the learned academic papers, all of which point to the need for a multidisciplinary team. The Minister of State may argue that by combining the phrase "persons (who may be employees of the Executive)" with the checklist we are actually getting, without explicitly mentioning it, a multidisciplinary team. However, I am surprised at the diffidence involved in not spelling it out. On 26 May the Minister of State said, "By maintaining the function of undertaking care needs assessments with the HSE, the legislation ensures that the applicant has access to a multi-disciplinary team of health care professionals located close to his or her place of residence." In speaking to the Houses of the Oireachtas the Minister of State has no difficulty in using the phrase multidisciplinary team, but there is reluctance to include it in the legislation, which some would find confusing.

I strongly support Senator Fitzgerald in her definition of multidisciplinary team. I accept what she says, that it is not necessarily an exhaustive list. I am particularly glad about that because it seems that while, as she says, the team may include the various professionals mentioned and that they may be needed to investigate certain situations in which they have expertise, I would have thought that my amendment, amendment No. 9, was significant, as it proposes

to insert the words, “A geriatrician will partake in each care needs assessment”. This is the condition in which such persons live. They are in such residences because they are old and have certain conditions by virtue of their age. I would have thought a geriatrician was universally useful in a multidisciplinary team and that it would be absolutely necessary to have one in assessing a case. An amendment was tabled earlier concerning the addition of social workers to the category of specified persons, but even that would not resolve the issue. Social workers need to be assessing individuals, not just applying for assessments, reviews and appealing decisions. One includes a social worker in a multidisciplinary team by specifying section 7(5)(a), which is covered by amendment No. 27. There is a cluster of related amendments which all mention section 7(5)(a). That appears technical so I would like to outline the reason for seeking to insert section 7(5)(a). It is in keeping with the Bill’s principle of flexibility, in other words one only gets the team member one needs, as identified or requested by the HSE — the geriatrician or other specified person. Therefore it avoids a situation whereby one must automatically call in everybody on the team, as mentioned in Senator Fitzgerald’s amendment, for example. In addition, by including this subsection as an area of appeal, it is in keeping with the principle of guaranteeing older people access to a multidisciplinary team.

Senator Fitzgerald has underlined an important point, which we have dealt with before, identifying a defect in the Government’s approach, although one understands what is happening because of the extreme financial situation in which we find ourselves. She said that older people are only guaranteed an assessment, not any particular treatment, and she is correct in that analysis. That is precisely because, as a number of Senators said on Second Stage, this is not rights-based legislation. It is a needs-based Bill, whereby people’s needs are assessed and in certain circumstances fulfilled, but there is no legal obligation to do so in every case.

Senator Rónán Mullen: I will start on a positive note by welcoming the Minister of State’s amendment. I may be jumping ahead slightly but it is relevant to what we are discussing. It follows from a request I made last week and I thank the Minister of State for following through on her commitment in that regard. That was essentially to move from the singular to the plural in dealing with the assessment issue. I am grateful that now the assessment cannot be a one-person job because the law will require more than one person to be involved. I thank the Minister of State for rendering my amendment unnecessary to that extent. However, I think the Bill falls far short of what is needed in the area of assessment. I support Senator Fitzgerald’s comprehensive definition of “multi-disciplinary team”. I may be incorrect, but in proposing an amendment that will define “multi-disciplinary team” do we not also need to argue for its direct inclusion and name it as being required?

I should make another point *en passant*. The difficulty in dealing with legislation at this time of the year is that it is like the 46A bus — it is all coming together pell-mell. Given the quality of the contributions I heard from my colleagues last week, I think more time is needed to allow the Government to reflect on the identified deficiencies in the spirit and letter of this legislation. Nowhere is that more obvious than in the failure to take the psychological dimension into account. The list of matters to be evaluated or taken account of in the care-needs assessment includes cognitive ability, extent of orientation and degree of mobility. All that is good but where is the reference to the person’s psychological state of mind and degree of motivation? The psychological aspect is crucial if one is to assess a person’s needs properly.

I am grateful to Senator Bradford for recalling what I said last week on Committee Stage. I clearly made the point that when decisions are being made about long-term residential care, there may be competing interests, albeit unconsciously. At the time, I said there may be well-meaning children who are just anxious that their mother is safely looked after and has three meals a day. The mother, on the other hand, might want to be independent, even if that means

[Senator Rónán Mullen.]

running the risk of falling down the stairs on occasion. I accept that my language was crude and graphic, but it may be that independence is what the person involved prizes most. That is why the care-needs assessment must be carefully considered.

I am grateful to Senator Norris for tabling an amendment which reflects specific points of concern that I raised last week. They included the need for an assessment to include the role of either a geriatrician or an old-age psychiatrist. I commend Senator Norris for his amendment that would, if accepted, require a geriatrician to partake in each care-needs assessment. The amendment should be widened to include the concept of an old-age psychiatrist, but the principle is honoured in Senator Norris's amendment, and it should be mandatory.

While I am grateful to the Minister of State for accepting the point that more than one person should be involved in making an assessment, I am not happy that the Bill provides that this assessment would take a truly holistic approach by taking account of the person's state of mind and motivation. To do so, the legislation should specifically require the involvement of an old-age psychiatrist or a geriatrician. To that extent I argue that such a role should also be included in the definition of "multi-disciplinary team", as included in the amendment tabled by Senators Fitzgerald and McFadden. In addition, there should be a requirement to have a multidisciplinary team. I thank the Minister of State for what she has done, but I do not think it goes far enough if one is to have a proper assessment of persons in need of long-term residential care who are to avail of the so-called fair deal.

Last week, I mentioned that people have a right to be concerned about the Government's approach in this area. After all, this Government has presided over a situation where, although people have an entitlement to fully paid nursing care, less four fifths of the non-contributory old age pension, the fact is that people involved in assessing older persons have been discouraged from telling them about their entitlements. I reported the words of one geriatrician who told me that when persons in need of long-term residential care were being assessed and were advised — this was before they considered getting the subvention scheme, which would cost families a lot — that they should be aware of their entitlement to the full package, less four fifths of the non-contributory pension, that was effectively frowned upon by the authorities, despite the fact that this was a constitutional right. When they were advised to go softly on advising people about their eligibility, they said "If you wish to tell us that they are not so entitled, please clarify the legal situation". They were then told cryptically, "You know the score", but what exactly was the score? Was it that the State was not willing to pay and did not want citizens to know their rights?

Senator David Norris: Absolutely. Historically, that has been the case.

Senator Rónán Mullen: While I do not fault the Minister of State, there is an absence of good faith on the Government's part and, therefore, to call it a fair deal is something of a euphemism. It is a fair deal given what is available to people, but it is not a fair deal compared to their entitlements. That is why we are concerned about a situation where four fifths of a person's income is to be taken in payment for nursing home care and up to 15% of the value of the person's home is taken after his or her death. This is a remarkable and unprecedented apportionment by the State to itself of the property of others. When one compares that with what a person might pay for private health insurance and what he or she might do with his or her resources to guarantee certain services, it is not unreasonable to suggest that people, so much of whose property is being taken from them, should be given the *crème de la crème* of services. That is why it should not just be bed and board. No matter how much we are coming to the rescue of different individuals, the fact is that this is a remarkable and unprecedented move by the State. In exchange for that, people should be guaranteed everything they need.

They should have five-star nursing home care, including therapeutic and other services which they might need.

Many people are concerned that as a result of going into a nursing home, they will lack access to things they need, be it a chiropodist, an occupational therapist or whatever. It would be appalling if in this Bill, which is proposed as visionary and compassionate, we were shunting people into the sidings where they do not have access to the full range of services to address their needs.

Senator Nicky McFadden: I am very disappointed that the debate has fallen on deaf ears, especially in the area of quality of life and the mental health of the individual. We have tabled amendments and I am very disappointed the Minister of State has not taken on board our suggestion that mental health be taken into account as part of the evaluation of a person's ability to cope. I read out the Minister of State's evaluation last week, which included the ability to communicate, to bathe unaided and to dress, the degree of continence and cognitive ability. None of that reflects the mood of the person or what the person needs. I thought we had thrashed this out last week, and I am disappointed to see the Minister of State has not taken the time to include it in the Bill.

A dear and close relative of mine has been discharged from an acute hospital this week. I fail to understand why the Minister of State would list a nurse and a doctor as being the two people who decide on where a person should go or how the person should be managed for the rest of his or her life. This is about people and how individuals will live out their lives. I am sure the Minister of State has had family members and close friends who need to be cared for. The multidisciplinary team is all encompassing and ensures no professional will be left out. I cannot see why the Minister of State cannot use this definition and I look forward to hearing why she cannot.

My relative had a stroke ten years ago and he made a full recovery with the help of wonderful supports from occupational therapists, speech therapists, physiotherapists, the public health nurse and the general practitioner. He now needs to be reassessed after ten years for a plethora of other complaints, but it is his fervent wish that he be able to go home independently with the community support that is in place. I cannot see how the Minister of State cannot have a multidisciplinary team for every person in a nursing home.

Senator Phil Prendergast: I support Senator McFadden's statement. Many people in nursing homes have great difficulty in accessing physiotherapy, occupational therapy, speech therapy and many of the other therapies necessary for them to continue in the best possible health. A multidisciplinary team should be decided by the geriatrician and a psychiatrist with a special interest in older people as there are many disorders which affect people's mental health in later years that can be easily sorted out if they are seen by a psychiatrist with a special interest in older people. As the spokesperson on older people for my party, I would like to see a comprehensive set of proposals in place with this Bill which is an utter departure from anything we have had before.

I will speak on sections 40 and 41 when they come up for discussion. However, as this Bill has already been through the Dáil, I would be concerned that very valid contributions made by people on both sides of the House have not been taken on board. A Bill such as this will affect everyone's future, so we should do everything to the best of our ability at this time.

Deputy Áine Brady: I indicated on Committee Stage that I would consider Senator Mullen's amendment, the effect of which is to acknowledge that assessments will be carried out by

[Deputy Áine Brady.]

multiple persons. Accordingly, I propose amendment No. 6 which is effectively identical to amendment No. 7 and which I ask Senators to accept in place of the amendment tabled by Senator Mullen and Senator Quinn. I also carefully considered the proposal to include a definition of “multidisciplinary team” in amendment No. 2. The reason I am not proposing the inclusion of a definition of multidisciplinary team is that such an action would be very likely to have unintended consequences.

Everyone knows how complex and difficult it has been to draft this legislation. The need to consider carefully all possible consequences when amending a Bill is something to be taken seriously. Indeed, Senator Norris very astutely highlighted an unintended consequence that arose as a result of amending the Bill to reflect a proposal by Deputy Reilly in the Dáil. I thank the Senator for highlighting this issue and it is now addressed by way of a subsequent amendment tabled for consideration today.

Senator Fitzgerald and Senator McFadden’s proposed definition is based on the HSE’s code of practice for integrated discharge planning. With respect to the definition provided by the HSE in its document, it is clearly not intended as a legal definition. Indeed, at one point within the document it notes that the person, his or her carer and his or her family also constitute part of the multidisciplinary team. Furthermore, because it is intended as guidance rather than as a legal definition, the definition is inconsistent in the terminology used. For example, some of the terms such as “dietician” are defined in regulatory legislation, while others such as “discharge coordinator” or “spiritual adviser” are not. Furthermore, some professions are covered by generic terms which are not defined in legislation. For example, medical practitioners seem to be covered by the generic term “medical staff”, while nurses are covered by the term “nursing team”. This use of undefined terms, especially when mixed with terms defined in primary legislation to refer to specific regulated professions, is inconsistent and legally ambiguous.

The use of undefined terms also presents another problem. The historic structure of the health sector as eight distinct health boards, coupled with the undefined nature of the terms, has resulted in different terms being used in different parts of the country to refer to a professional undertaking a particular role.

The approach adopted in the definition recognises some specialties while ignoring others. For example, nurses specialising in public health nursing appear to be identified while nursing and medical personnel specialising in psychiatry of old age are not mentioned.

Senator David Norris: Yes, they are.

Deputy Áine Brady: Similarly, geriatricians and psychologists are omitted. Consistency of approach is important in acknowledging and respecting each of the health care professionals who work in front-line health services and who may form part of the multidisciplinary team, as required. The danger of a prescriptive definition in primary legislation is that it may be restrictive and could omit certain professionals. Experience has shown that the omission of a particular professional from a list of designated persons within primary legislation can undermine that profession’s right to undertake certain actions, even where the policy intention and the professional’s training and scope of practice dictates otherwise.

The term “multidisciplinary team” is widely used across many different care areas and means different things in different care areas. For example, it is used in mental health, disability, children’s and cancer services. It is also used for primary care teams and for general discharge planning for all those leaving the acute sector and not just for people in need of long-term

residential care. Defining the term in primary legislation for the first time could have unintended consequences for these other care areas.

The matter of defining multidisciplinary team requires careful consideration. Accordingly, I will endeavour to examine the many complex issues I have outlined and to define multidisciplinary team in guidelines in the immediate term. I also propose to provide for this matter to form part of the review of the legislation three years from now. For these reasons, I do not propose to accept amendment No. 2.

Amendment No. 8 proposes that care needs assessments should be undertaken by a representative of the Health Information and Quality Authority, HIQA. The function of HIQA will be to register and inspect all designated centres, including public, private and voluntary nursing homes. The undertaking of care needs assessments is outside HIQA's role and would distract from its critical role as a national regulatory authority. It would also represent an inefficient use of public resources. By maintaining the function of undertaking care needs assessments within the HSE, the legislation ensures the applicant has access to a multidisciplinary team of health care professionals located close to the applicant's place of residence. Such health care professionals will be engaged simultaneously in the provision of care either within the acute sector as part of primary care teams or in the community setting generally. The transfer of this function to HIQA would require significant dedicated resources to be provided with a resulting drain on the provision of front-line health care staff from the HSE. The fact that HIQA is a centralised regulatory authority would also present problems in term of providing efficient and cost-effective assessments to applicants at local level. I do not propose to accept the amendment.

Amendment No. 9, and amendments Nos. 24, 27 and 28 which are consequential on amendment No. 9, raise the same issues as amendment No. 2. Amendment No. 9 refers to a team and, therefore, requires a definition of "multidisciplinary team". It also requires mandatory assessment by a geriatrician. This is contrary to the policy intention that care needs assessments would be flexible and person-centred and would involve assessment by various health care professionals as required. In the cases of people who are already in a nursing home, assessment by a geriatrician will not be necessary. A mandatory requirement would divert a health care resource that is already much in demand. Not only would this be inefficient in terms of the use of resources, it would also impact on applicants by increasing the overall waiting times for assessments. For these reasons, I do not propose to accept amendments Nos. 9, 24, 27 and 28.

Senator Frances Fitzgerald: I thank the Minister of State for a detailed reply which I do not find convincing. It will be to the detriment of those who will go into nursing homes that she will not accept this range of amendments and in their interests for her to accept them. Even if the Minister of State does not accept the amendments, she should have tabled amendments outlining a response to key concerns raised by Senators in this House about the potentially narrow and ultimately detrimental nature of the assessment that would be made. The Government should have provided a definition of "multidisciplinary team". The Minister of State has outlined a series of concerns about the definition of the term and these could have been dealt with in legislation. She has some concerns about dealing with this in primary legislation. If it had been dealt with by the Minister of State, she could have produced a definition of "multidisciplinary team", which would mean that the assessment would be better for the individual. The Minister of State does not want to accept the definition suggested by this amendment, even though it comes from the code of practice of the HSE. I welcome the fact that regulations will be developed. I reiterate how important this is and that assessment should be multidisciplinary

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in many cases to deal with the complex needs of the high dependency individuals being assessed.

Senator McFadden referred to mental health. It is important that this is written into the regulation because it is not clear at present. The definitions in this legislation are very focused on the physical aspect and are very narrow. The four professions referred to in the legislation are very narrow. The regulations must address the fact that what we want to see in most cases is a multidisciplinary team assessment, if necessary beyond the four practitioners mentioned in the amendments. I am very concerned that this will not be done if it is not included in primary legislation. There will be fewer good quality care assessments. If the quality of the assessment is not good enough, the quality of care will be compromised. I am very concerned about this. I regret that the Minister of State has found fault with these amendments. She should have tabled amendments that dealt with the issues outlined and should have taken into account the arguments made while dealing with the underlying issue, that being the need for a multidisciplinary team assessment.

Deputy Áine Brady: I assure Senators that I gave great thought to their valuable contributions on Committee Stage. The care needs assessment is holistic in nature. It is broad and inclusive by virtue of the fact that any other matter that affects people's ability to care for themselves, as referred to in section 7(6)(d), the category concerning family and community care, and all such issues will be taken into when undertaking a care needs assessment. The guidance document on care needs assessment being prepared by the HSE takes into account a person's views and preferences and mental health. The person undertaking the care needs assessment must be suitable, a term defined in section 3 as meaning that "the person has the necessary qualifications, training or experience ... to perform that function". This ensures all members of the multidisciplinary team can take part in the assessment. The term is all-encompassing and does not omit any professional. I will examine the many complex issues in defining multidisciplinary teams in the guidelines and I will also propose that this matter be part of the review in three years' time.

1 o'clock

Amendment put.

The Seanad divided: Tá, 20; Níl, 23.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.

Healy Eames, Fidelma.
McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
Phelan, John Paul.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.

Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Hanafin, John.

Níl—*continued*

MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.

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

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

Amendment declared lost.

An Leas-Chathaoirleach: Amendment No. 3 in the names of Senators Mullen and Quinn is deemed to be out of order as it involves a potential charge on Revenue. Amendments Nos. 4 and 5 in the names of Senators Norris and Bacik are also deemed to be out of order for the same reason.

Amendments Nos. 3 to 5, inclusive, not moved.

Government amendment No. 6:

In page 13, lines 6 and 7, to delete all words from and including “by” in line 6 down to and including “Executive)” in line 7 and substitute the following:

“by persons (who may be employees of the Executive)”.

Amendment agreed to.

Amendments Nos. 7 and 8 not moved.

Senator David Norris: I move amendment No. 9:

In page 13, between lines 9 and 10, to insert the following:

“(a) Assessment shall be carried out by individuals within the team as specified by the Health Service Executive, the relevant person, or a specified person.

(b) A geriatrician will partake in each care needs assessment.”.

Senator Ivana Bacik: I second the amendment.

Amendment put. The Seanad divided: Tá, 20; Níl, 24.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.

McFadden, Nicky.
Mullen, Rónán.
Norris, David.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.

Hanafin, John.
MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators David Norris and Feargal Quinn; Níl, Senators Déirdre de Búrca and Diarmuid Wilson.

Amendment declared lost.

Sitting suspended at 1.25 p.m. and resumed at 2.15 p.m.

Sitting suspended.

Senator David Norris: I move amendment No. 10:

In page 14, lines 4 and 5, to delete “during the person’s lifetime” and substitute “for a period of no less than 1095 days”.

If I am correct, this amendment specifies a period of no less than 1,095 days. While I have made the argument on this point previously, I will restate it. It is questionable for the executive to determine that someone is unlikely to cease to require services, should the executive wish to prove that someone needs long-term care and wishes to set up the financial arrangements now, rather than after 30 consecutive days. This can be approached in the manner I have suggested in the amendment. In the opinion of my advisers, this would be a better way of doing it, which would clean up the situation and open up the possibility of hope. This was the point I made the last time, namely, that it would not act to seal people in. I will leave that point before the Minister of State.

Senator Phil Prendergast: I second the amendment.

Deputy Áine Brady: The Bill provides that the Health Service Executive may determine that a person is likely to require care services for the remainder of his or her life. This provision, in conjunction with section 3(2) of the Bill, acknowledges that the definition of long-term residential care services contains a minimum time period of 30 consecutive days. Its underlying intention is to enable the HSE to commence payment of financial support from the date the person enters the nursing home, rather than after the expiration of 30 days. I appreciate the intention of Senator Norris’s amendment which is to provide for the same effect without the need for a determination regarding the likelihood of a person’s care needs in the remainder of his or her lifetime. However, I reassure the Senator that the existing wording was the subject of careful consideration by the Office of the Attorney General. The wording reflects the advice of that office. At the same time, it achieves the policy intention of both the Senator and the Government of ensuring financial support can be paid from the first day of a person’s time in care.

For this reason, I do not propose to accept the amendment. However, I hope my response has offered the Senator sufficient reassurance on the matter.

Senator David Norris: I am happy to withdraw the amendment, particularly in the light of the assurances provided by the Minister of State that the most important point has been met, namely, that financial strain and worry will be removed as soon as possible.

Amendment, by leave, withdrawn.

Senator David Norris: I move amendment No. 11:

In page 14, to delete lines 26 to 28 and substitute the following:

“(13) The content of a care needs assessment report will be provided to a relevant facility or approved nursing home.”.

Again, there was extensive discussion on this issue the last time. The purpose of the amendment is to assist in the provision of proper care. While I acknowledge the Minister of State responded, it seemed to be important that the home or place of care should be in possession of the assessment as carried out. Obviously, if the staff of such a facility are trying to cater for a person's needs, they should have the opportunity to avail themselves of the professional opinions of those who have made such an assessment. The briefing I have been given states the content of a care needs assessment report may be provided under section 7(13) for a relevant facility with the prior consent of the person who is the subject of the report. It goes on to refer to how a specified person can act in respect of an application or appeal. I wonder whether this is the correct brief.

Senator Frances Fitzgerald: The amendment pertains to the care needs assessment report.

Senator David Norris: Yes. A specified person can act in respect of an application, appeal or review on behalf of another individual who does not have capacity. However, capacity in the Bill is task-related. Under section 21(1), there is an assumption that until the contrary is established, a person has full mental capacity. The mental capacity assessment, as outlined in section 21(1), undertakes to assess the person's capacity to make the application and consent to the charge on his or her home. It does not consider the person's capacity to consent to the sending of the personal information contained in his or her care needs assessment report to a relevant facility or approved nursing home.

A second but related issue is that on closer examination, one may question whether a care representative actually can be a specified person, as the specific explicit role of the care representative has been outlined in section 21(7). Section 47(1) adds to the duties the care representative may undertake as a specified person but is in contradiction of the principle of section 21(7). This issue is rather complicated and I have spoken to my good friend about the manner in which these materials are presented in order to make them more accessible and easier for Members of the Oireachtas. However, this appears to address the question of providing and giving consent for the provision of relevant material for the appropriate facility. On practical grounds, it appears to be a good idea that it should be permitted.

Senator Phil Prendergast: I second the amendment.

Deputy Áine Brady: Section 7(13) provides for the content of a care needs assessment report to be provided for a nursing home with the prior consent of the subject of the assessment. I cannot accept the Senator's amendment because it does not respect the rights of the individual being assessed. The provision of a care needs assessment report for a nursing home ultimately

[Deputy Áine Brady.]

is a matter for the individual or, where relevant, his or her representative and the nursing home. A care needs assessment report will contain sensitive information on a person's health and well-being and it would not be appropriate for the HSE to ignore a person's right to confidentiality in this regard. Specifically, it is considered that the provision of the care needs assessment report for a nursing home without a person's prior consent would be in contravention of section 2B of the Data Protection Act 1988, as amended by the Data Protection (Amendment) Act 2003, on the processing of sensitive data. Section 7(13) of the Bill was introduced in the Dáil on Report Stage. At the time Deputy Reilly welcomed the introduction of this new provision, noted that it addressed his concerns that care needs assessments could be shared with nursing homes and acknowledged the absolute need for prior consent. Therefore, I do not propose to accept the amendment.

An Cathaoirleach: Is the amendment being pressed?

Senator David Norris: While there is not much point in pressing it, I wish to note that this suggestion has been made to me clearly. I understand the sensitivity if there is an expressed wish by the patient not to permit such provision of information. This is a question of human rights and the responsibilities and rights of the individual. However, as the Minister of State is aware, there are many instances in which a person's faculties may have deteriorated. People may not be in a position to make such a decision clearly, whereas at the same time it may be in their interests for the facility to have access to this assessment in order to provide the appropriate treatment. The information that has been passed on to me suggests the Minister of State's observations on the specified person or the care representative may not be legally covered in the Bill. In other words, the people from Age Action Ireland who briefed me have suggested there is a lacuna in the Bill in this regard. The patient may fall between the two situations. The specified person or care representative acting on behalf of a person who is incapacitated in the manner I have described may not, in fact, have the authority to pass on the contents of the report, even though it may be in the interests of such a person for that to be done. That is the point I am making. I do not propose to pursue the amendment to a vote because it would be a completely fruitless exercise.

Deputy Áine Brady: Amendment No. 32 will put it beyond doubt that a specified person may consent to the sharing of a care needs assessment if the person who is the subject of the report lacks the capacity to do so.

Senator David Norris: It is most helpful that an amendment is to be proposed in response to what we have said. I welcome what the Minister of State has said about amendment No. 32.

Amendment, by leave, withdrawn.

Senator Rónán Mullen: I move amendment No. 12:

In page 16, line 26, after "Act." to insert the following:

"The percentage value accruing to the Executive under this part shall not exceed 15 per cent of the estimated market value established under *section 10*."

This amendment attempts to set out what will happen when a house that was valued when its owner entered a nursing home loses some of its value thereafter. I am worried that, as things stand, the State might end up, upon probate, taking more than 15% of the value of the home. I would like to hear what the Minister of State has to say about Age Action Ireland's suggestion that, in line with Government policy, an individual should be guaranteed not to have to pay

more than 15% of the value of his or her home to the HSE upon the relevant event, or the deferred relevant event.

Senator Nicky McFadden: I second the amendment. Fine Gael is supporting this proposal which was discussed on Committee Stage.

Senator David Norris: I support the amendment, to which I have added my name. The Minister of State will recall that I invaded my own privacy during the Committee Stage debate when I gave an example of a parallel situation of unfairness. When I inherited a small number of stocks and shares some years ago, it took two and a half years to get them out of probate. They were valued for testamentary purposes at the height of the market. I had to make a payment on the basis of the height of the market value, even though the first opportunity I got to sell them was when the market was at the lowest point. The amount I paid was much more than the real value of the shares. The point Senator Mullen is making is that the market value of the property could decrease. It would be unfair to charge somebody on the basis of a valuation that is no longer applicable. For this reason, I support the amendment strongly.

Deputy Áine Brady: Amendment No. 12 stipulates that the cap would be set at 15% of the market value of the principal residence at the time of the original application for State support. I will set out why I consider that the approach provided for in the Bill, as it stands, is fairer and more favourable for applicants. The cap is applied after the first three years of care. In the case of a single person, the contribution payable is a maximum of 5% per annum, resulting in a total capped contribution of 15% if the person spends three or more years in care. In the case of a couple, the maximum contribution payable by each member is 2.5% per annum, resulting in a total capped contribution of 7.5%. The three-year cap for which we are providing acknowledges the circumstances of couples by limiting the contribution of each member to 7.5%. Moreover, by capping contributions by reference to a time period, it has been possible to extend the cap retrospectively in order that people currently in care can benefit from having their existing time in nursing home care taken into account. In a climate of declining property prices such as that we are experiencing a person can avail of the financial review mechanism provided for in the Bill to reduce the contribution payable on his or her principal residence in line with the declining value of the property in the second or third year. A straightforward 50% cap, based on the original valuation of the property, would not achieve this. While the Bill provides for the cessation of contributions after the first three years of care, it also takes account of the time value of money, in other words, inflation or deflation. This is fair, as the taxpayer is offering, in effect, an interest free loan under the scheme. This measure is also important from the perspective of financial sustainability, particularly in the light of the generous system of further deferral offered within the scheme. The system of further deferral could result in families deferring the repayment of contributions for 50 or 60 years if they wish to do so. In such circumstances, it is fair and just that the time value of money is acknowledged. For all these reasons, I do not propose to accept amendment No. 12.

Senator Rónán Mullen: As I said during the debate on earlier amendments, something dramatic seems to be at work in this legislation. It seems the State is to be permitted to appropriate a significant portion of a person's property to itself. If, as a result of a change in the market value of housing, the amount being taken were to be more punitive than 15% of the value of the property at the time the State is appropriating it to itself, that would be excessive. Clearly, this is a technical and complex matter. I acknowledge what the Minister of State has said about the taxpayers' contribution and accept that the Government has to have regard to the interests of taxpayers. However, I ask her to reconsider whether what is being proposed will be more punitive than is widely understood.

Senator David Norris: As a signatory to the amendment, I accept the very good case made by the Minister of State. I withdraw my support for the amendment.

Deputy Áine Brady: The legislation provides for a financial review. That is the most important aspect of it.

Senator David Norris: It averages out over three years.

Deputy Áine Brady: Yes.

Senator David Norris: That is a very valid point.

Amendment, by leave, withdrawn.

An Cathaoirleach: Recommittal is necessary in respect of amendments Nos. 13 to 16, inclusive, and amendments Nos. 22 and 23 as they do not arise from Committee Stage proceedings.

Bill recommitted in respect of amendments Nos. 13 to 16, inclusive.

Senator David Norris: I would like to raise a technical point of order. Why was the Bill not recommitted in respect of Government amendment No. 6? If it needs to be recommitted in respect of amendments Nos. 13 to 16, inclusive, and Nos. 22 and 23, presumably it should have been recommitted in respect of the earlier amendment No. 6.

An Cathaoirleach: No.

Senator David Norris: I am looking for some guidance on this issue.

An Cathaoirleach: The effect of recommittal is that the debate is not restricted. Senators may speak more than once on this group of amendments.

Senator David Norris: I thank the Cathaoirleach for his guidance, but I do not understand why the same was not done in the case of amendment No. 6.

An Cathaoirleach: Amendment No. 6 has been dealt with.

Senator David Norris: I see.

An Cathaoirleach: Amendments Nos. 13 to 16, inclusive, and Nos. 22 and 23 are related and may be discussed together.

Senator Frances Fitzgerald: We are not dealing with amendment No. 32.

Government amendment No. 13:

In page 22, to delete lines 31 to 34 and substitute the following:

“(2)(a) Where the Executive has received a request for payment of ancillary State support and the Executive is satisfied that it is appropriate that payment of such support be made, the Executive shall make an order in accordance with this section.

(b) The Executive shall not make a payment in respect of ancillary State support prior to the making of an order by the Executive charging the interest in the relevant chargeable asset with the secured amount.”.

Deputy Áine Brady: These technical amendments clarify matters in relation to the charging order and its release. Amendment No. 13 clarifies the authority of the Health Service Executive to make charging orders. Amendment No. 14 clarifies the responsibility of the Property Registration Authority to register charging orders submitted to it by the HSE. These amendments are being proposed on foot of observations by a stakeholder to the effect that the authority of the HSE and the responsibility of the PRA in relation to charging orders should be explicitly, rather than implicitly, provided for. Amendment No. 15 which proposes to include a new section 17(8) in the Bill has been proposed on the advice of the Office of the Attorney General. Section 17(8) currently provides that ancillary State support paid by the HSE and secured by mortgage may be recovered as a contract debt. The amendment provides that such moneys may be recovered irrespective of whether they are secured by a mortgage. This acknowledges that the moneys will have been paid by the HSE even if the mortgage is subsequently declared invalid for some technical reason.

Amendments Nos. 16 and 23 shall be read together. Currently, section 7(14) refers to both charging orders and the release of charging orders. However, the more appropriate location for the issue of the release of charging orders is section 28. Amendment No. 16 therefore removes the reference to release of charging orders from subsection (14) while amendment No. 23 ensures the relevant reference is reflected instead in section 28.

Finally, amendment No. 22 amends section 28(4) to ensure the format of receipts as well as applications may be prescribed by regulation. I ask Senators to support these amendments.

Senator David Norris: I thought amendment No. 23 was included in this grouping of amendments.

An Cathaoirleach: The grouping includes amendment No. 22.

Senator David Norris: What about amendment No. 23?

An Cathaoirleach: It includes amendment No. 23.

Deputy Áine Brady: Yes, amendments Nos. 22 and 23 are being read together.

Senator Frances Fitzgerald: Quite a number of these amendments that the Minister of State proposes to insert on the advice of the Attorney General appear to be technical in nature. Amendment No. 13 seeks to ensure the executive is satisfied payment is in order before payment is made. That is fairly straightforward.

I take it that amendment No. 14 is a routine legal procedure to register an order affecting the land.

Deputy Áine Brady: Yes.

Senator Frances Fitzgerald: If it is a routine legal procedure, why has it to be inserted in this way? Perhaps the Minister of State could explain that. It may well be simply a routine amendment that is inserted in legislation where property has to be registered or handed over.

I have some questions concerning amendment No. 15. Will the Minister of State explain what was the problem with the previous provision and the reason she is seeking this change? Will she spell out if she is extending the power of the State to recoup money from a resident or from his or her family? Is she trying to make it easier, even if there is not a mortgage in place, for the executive to go to the courts to recoup money that may be owed? I am not clear as to the reason the Minister of State proposes to make this change and what the financial impact of it will be on the families concerned. The Minister of State might explain that.

[Senator Frances Fitzgerald.]

Has the Minister of State taken amendment No. 17 in this grouping?

Deputy Áine Brady: No.

Senator Frances Fitzgerald: The other two amendments appear to be fairly technical.

Senator David Norris: It is precisely on those two technical amendments that I want to engage with the Minister of State. The reason I asked about amendment No. 23 was that the Minister of State concluded her remarks by saying “Finally, amendment No. 22” and I thought she might have inadvertently omitted amendment No. 23. Rather than they being taken together, it appeared as if she was concluding her comments on amendment No. 22.

As Senator Fitzgerald said, these amendments are quite technical. They cover an area on which I am not fully competent but the ordinary citizen is entitled to exhibit his or her ignorance and have it amended by an intelligent reply from the Minister. I am concerned about this because the public perceive there to be a vulnerability in terms of electronic exchanges. They can be subject to hacking, interfered with in various ways and the authenticity or validity of exchanges made by computer has, on occasion, been called into question. There is the possibility of fraud being committed. To a certain extent this is a matter that is being considered here. In other words, we are trying to make sure the person who makes the electronic application or transfers legal documents electronically is the appropriate person. Why is there no reference, for example, to establishing the fact that the person concerned is the appropriate person and not a fraudulent person attempting to make an electronic contract? That is the particular matter that concerns me regarding amendment No. 23.

Amendment No. 16 is technical, proposing a change in the form of words used. I am concerned about fraud in this respect. I am not sure if that is what was in the Minister of State’s mind in tabling this amendment, but it is what is in my mind in this respect, namely, if an inappropriate person were to use a computer to intervene either for fraudulent reasons, I do not know whether that would be significant in this case, or simply to cause trouble. There are mischief makers and people, including some family members, who enjoy making trouble.

Senator Nicky McFadden: The only change proposed in amendment No. 15 is the inclusion of the words “of ancillary State support”. What do those words mean? Do they mean any amount paid by way of ancillary State support? That could mean anything I suppose. I would like the Minister of State to outline clearly what it means.

Deputy Áine Brady: On amendment No. 14 regarding the property registration authority, while it is acknowledged that this is a routine procedure, we would still like to have it specified explicitly in the primary legislation.

On section 15(a), as I understand it, the Office of the Attorney General was concerned that this provision would be consistent with sections 16 and 26 in terms of the requirement to repay moneys paid by way of ancillary State support, which is the loan element of the fair deal scheme.

On section 15(b), we are simply ensuring that if by some chance the mortgage upon which a charge is registered fails due to a technicality, the HSE will be able to recover it as a debt anyway.

Amendment agreed to.

Government amendment No. 14:

In page 23, line 13, to delete “of such land.” and substitute the following:

“of such land, and the Property Registration Authority shall on application being made to it register such order affecting the land concerned.”.

Amendment agreed to.

Government amendment No. 15:

In page 23, to delete lines 14 to 17 and substitute the following:

“(8) Any amount paid by way of ancillary State support, whether or not it is subject of a mortgage arising by reason of this section, may, without prejudice to any other power in that behalf, be recovered by the Executive as a simple contract debt in any court of competent jurisdiction.”.

Amendment agreed to.

Government amendment No. 16:

In page 24, to delete lines 5 and 10 and substitute the following:

“(14) Where an order under this section made in electronic form purports to have been made by an authorised person it shall be presumed by the Property Registration Authority that such electronic document was made and transmitted by the person by whom it purports to have been made and transmitted.”.

Amendment agreed to.

Bill reported with amendments.

An Cathaoirleach: Amendment Nos 17, 19 and 21 are related, amendment No. 18 is related and an alternative to amendment No. 17 and amendment No. 20 is related and an alternative to amendment No. 19. Therefore, amendments Nos. 17 to 21, inclusive, may be discussed together.

Government amendment No. 17:

In page 28, lines 38 to 40, to delete all words from and including “having” in line 38 down to and including “section.” in line 40 and substitute the following:

“, having regard to—

- (a) the express wishes (if known) of the relevant person concerned, and
- (b) the circumstances of the relevant person concerned,

the court may appoint a person to be a care representative in accordance with this section.”.

Deputy Áine Brady: Amendment No. 17 obliges the court to have regard to the wishes of the person who is the subject of the application when appointing a care representative. The care representative has a very limited function under section 21 which extends only to matters relating to ancillary State support and the creation of a charge. However, the proposal represents a further safeguard for the person and is consistent with guiding principles contained in the proposed mental capacity legislation.

[Deputy Áine Brady.]

Senators will note that the proposal reflects my commitment to accept, in principle, Committee Stage amendment No. 22 by Senator Norris. Accordingly, I ask Senators to support this amendment in place of amendment No. 18.

Amendment No. 19 similarly reflects a commitment, in principle, made on Committee Stage. It explicitly excludes from the categories of care representative any medical practitioner involved in the assessment of the person's capacity. This is consistent with the overall policy intention of section 21 and mirrors the intent of amendment No. 20. I therefore ask Senators to support this amendment in place of amendment No. 20.

Finally, amendment No. 21 proposes to stipulate that an assessment officer must have sufficient expertise, must sufficiently communicate with the applicant and must note the applicant's needs or preferences regarding the decisions concerned.

With regard to the issues of expertise and communication, medical practitioners undertaking functional assessments of capacity will be bound by their own code of ethics and ensure such assessments are undertaken in a thorough and robust manner. Moreover, the functional nature of the assessment absolutely requires that a person must be provided with all relevant information in a manner which is most easily accessible for them and that he or she must be supported to communicate his or her decision in any way possible. The person's needs and preferences in respect of the decision will be noted by the practitioner. Amendment No. 17 also ensures these will be formally noted by the court.

For the reasons I have outlined, amendment No. 21 is unnecessary. However, the Department of Health and Children is working on the guidance documents which will support medical practitioners in undertaking assessments under section 21 and highlight all of the important considerations associated with the functional test of capacity.

Senator Frances Fitzgerald: I welcome amendment No. 17 which provides an additional safeguard and has regard to the expressed wishes, if known, of the relevant person concerned and his or her circumstances. The amendment also covers the appointment of a person to be a care representative. We had a lengthy debate on this matter on Committee Stage to which Senators Mullen and Norris also contributed. I am of the view that the amendment covers the issue about which we were concerned.

Senator David Norris: I welcome the Minister of State's flexibility in accepting the principle behind amendments in respect of which we made substantial arguments on Committee Stage. It was for this reason — namely, the improvement of legislation — that the Seanad was established. Legislation can only be improved with the co-operation of an intelligent Minister or Minister of State. It is lucky that we are in the presence of such an individual today.

Senator Nicky McFadden: I thank the Minister of State for tabling amendment No. 17, particularly in the light of the fact that Members expressed grave concerns about this matter on Committee Stage. I appreciate the fact that she listened to our arguments. It is proposed in amendment No. 18 that the phrase “and particular regard to the expressed, verbal or written wishes of the person” should also be included in the section. In that context, if someone with motor neurone disease or a similar condition makes a written request before he or she becomes completely incapacitated, it is important that it be taken into account.

Senator Rónán Mullen: I also thank the Minister of State for tabling amendment No. 17 which goes some way towards making the relevant provision more humane and personal. It is important that the expressed verbal or written wishes of a person be taken into account. I welcome the comprehensive nature of amendment No. 17 in this regard.

Amendment agreed to.

Amendment No. 18 not moved.

Government amendment No. 19:

In page 29, to delete lines 27 to 30 and substitute the following:

“(i) a person, other than a person who is—

(i) the proprietor of a nursing home in which the relevant person resides or is likely to reside, or

(ii) one of the registered medical practitioners who examined the relevant person and prepared a report referred to in *subsection (18)* in respect of such person,

and who appears to the court to have a good and sufficient interest in the welfare of the relevant person.”.

Amendment agreed to.

Amendment No. 20 not moved.

Senator Frances Fitzgerald: I move amendment No. 21:

In page 33, between lines 41 and 42, to insert the following:

“(44) For the purposes of *section 21(43)* this Act shall ensure individuals are assisted by the Executive in their effort to demonstrate capacity—

(a) The assessment officer should be obliged to provide an education service where it is guaranteed a person with appropriate expertise would assist in the carrying out of the assessment.

(b) The assessment officer should ensure that the person carrying out an assessment would communicate with the applicant in a manner which facilitates appropriate participation, promotes dialogue about the nature of the assessment and that note is taken of the views (if any) of the applicant concerning his or her needs or preferences in relation to the decision concerned.”.

Amendment put.

The Seanad divided: Tá, 20; Níl, 23.

Tá

Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.

McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.

MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

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

Amendment declared lost.

Bill recommitted in respect of amendments Nos. 22 and 23.

Government amendment No. 22:

In page 40, line 3, to delete “An application under *subsection (3)*” and substitute the following:

“A receipt under *subsection (1)* and an application under *subsection (3)*”.

Amendment agreed to.

Government amendment No. 23:

In page 40, between lines 4 and 5, to insert the following:

“(5) Where an application under *subsection (3)* is made to the Property Registration Authority in electronic form which purports to have been made by an authorised person it shall be presumed by the Property Registration Authority that such electronic document was made and transmitted by the person by whom it purports to have been made and transmitted.”.

Amendment agreed to.

Bill reported with amendments.

Amendment No. 24 not moved.

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 25 and 26 are related and may be discussed together by agreement of the House.

Senator David Norris: I move amendment No. 25:

In page 41, between lines 6 and 7, to insert the following:

“(b) where a person is assessed as in need by reason of categories outlined in *section 7(6)(c)*, reviews will be offered at a minimum of every 6 months and no later than every 12 months;”.

This is about the frequency and spacing of reviews and seems to be a perfectly logical amendment to make.

Senator Phil Prendergast: I second the amendment.

Senator Nicky McFadden: I support this amendment. It makes absolute sense that people's situations would be reviewed and we discussed that there might be a change in a person's health in that it might improve. I agree there must be regular reviews and not later than 12 months.

Senator Ivor Callely: I look forward with interest to what the Minister of State has to say on this. I presume there will be some mechanism. The Minister of State touched on this issue when we spoke on Committee Stage but perhaps she would clarify for the record. If there are changes in circumstances, there will have to be some accommodation. I would welcome clarification on how that will be done.

Deputy Áine Brady: I understand the intent of amendment No. 25 is to provide for situations where a person is in nursing home care but could return to his or her community if sufficient community-based supports and services were in place. It stipulates that the HSE would offer to undertake a review of care needs every six months and no later than every 12 months to ascertain whether the person could move back to a community-based setting. A person may seek such a review under section 30 at any time. As such, this amendment is unnecessary and I do not propose to accept it. I hope my clarification addresses the Senators' underlying concern.

Amendment No. 26 proposes that all reviews be undertaken by people who have not been involved in a previous assessment. While I appreciate the good intention of this amendment, the review mechanism is different in purpose from the appeal mechanism. The initiation of a review does not indicate confrontation or disagreement with a decision. Rather, it is a mechanism by which changes in a person's circumstances or issues which were perhaps overlooked in an initial assessment may be brought to attention and taken into account.

Under the subvention scheme, subvention recipients generally undergo an annual review of their financial circumstances. In many cases recipients will have depleted their assets or may have reached the three-year cap in respect of their principal private residence and these factors can be taken into account in determining the future level of subvention payable. A review of care needs will be undertaken by health care professionals on the same basis as the original care needs assessment.

Given that some individuals may require assessment by particular dedicated specialists and that these specialists are limited in number, it would be wholly imprudent to stipulate that a review of care needs could not be undertaken by an individual who was a member of the original multidisciplinary team. In many cases it would be highly beneficial for the same practitioners to re-assess a person periodically. It would ensure a continuity of care whereby the practitioners will be known to the individual and will have a solid knowledge of the person's previous health status and circumstances. For these reasons I do not propose to accept amendment No. 26.

Senator David Norris: The Minister of State is correct in her interpretation of what we were saying. Because funds for community services are not earmarked in the HSE, the Minister of State has no idea of the availability of services in the medium to long term and can assess only in the short term. This presents a real need for re-assessment of the client every 12 months where lack of available services is a determinant in their need for residential care. If community care becomes available the individual should be facilitated to return to the community should

[Senator David Norris.]

this concur with their wishes and in accordance with current Irish policy, which is the point the Minister of State was making. This is especially important given that low-dependency patients may be under pressure to enter nursing home care from their acute sector bed owing to the acute care charge. The Minister of State is correct. While I am not 100% satisfied with what she has said, she has gone some way to assuaging my concerns.

Regarding amendment No. 26 and the idea that the person doing the reassessment should not be the same person who did the assessment, I take it the Minister of State is saying there is provision that it need not necessarily or automatically be the same person. I can accept that there may be circumstances in which it is appropriate for it to be the same person. The Minister of State makes a clear and cogent distinction between “review” and “appeal”, but one must bear in mind all the time that these are vulnerable people. Unfortunately, there have been situations in some hospitals where consultants, on whom the community would normally place a high degree of reliance, have violated that trust. To have someone such as that reviewing their own practice and recommendations for treatment would not be appropriate, so one has to be concerned. I presume this is why Age Action Ireland has expressed an interest in this matter.

I will not press the amendment because it would be fruitless. However the Minister of State has, yet again, returned to the issue of the limited number of specialists available in this country. That indicates an underlying problem and we are unlikely to solve it in these economic circumstances. It suggests there is a defect. Time and again in the discussion of this Bill the Minister of States has referred to the scarcity of personnel resources and that a limited number of people have the qualifications necessary to deal with particular circumstances. That is worrying and I hope this is addressed when the upturn in the economy comes, as it surely will. I am not sure when it will come as I am not gifted with prophecy.

It is very worrying that the financial figures according to the OECD report released at lunchtime, appear to be very significantly worse — 2% — than the Government had predicted. That is a very dramatic situation which must worry everyone regardless of party affiliation or lack thereof. We are told there may be some stabilisation in 2010. While I accept that in these circumstances one must confront a situation where there is limitation in professional expertise, at the very next available opportunity this should be one of the priorities of whatever Government is in place at that point. It should be unacceptable in a wealthy, western society that we have to make excuses for inadequacies or use as an alibi for a less than perfect system the fact that there is a shortfall in the number of experts.

I am involved in the Joint Committee on Foreign Affairs. I have a couple of amendments remaining, most of which have already been discussed. I have asked Senator Fitzgerald if she would very kindly move them in my absence. I will return for the vote but I have to leave the House now.

Amendment, by leave, withdrawn.

Amendments Nos. 26 to 28, inclusive, not moved.

Acting Chairman: Amendments Nos. 29 and 30 are out of order because they may incur a potential charge on Revenue.

Amendments Nos. 29 and 30 not moved.

Senator Rónán Mullen: May I comment on that?

Acting Chairman: I am sorry but I am informed the Senator cannot comment on it.

Senator Rónán Mullen: May I make a point of order? I am not sure if it is a point of order but perhaps the Acting Chairman can rule on it. I want to express my disquiet that substantial amendments which touch on how things are to be done to ensure fairness in the system cannot even be discussed by the Seanad.

Senator Nicky McFadden: Hear, hear.

Senator Rónán Mullen: I know Senator Norris has already made this point regarding several other amendments. This is not the first time that one of my amendments has been nobbled today. I tabled an amendment seeking to include other categories of persons under the definition of couple, for example. Some of these amendments go to the heart of what the Bill is supposed to cover. I want to register my disquiet.

Acting Chairman: I reluctantly must interrupt the Senator. These amendments have been ruled out of order in accordance with Standing Orders and long established practice. I apologise. The Cathaoirleach has ruled on the matter.

Senator Rónán Mullen: I move amendment No. 31:

In page 50, to delete lines 31 to 35 and substitute the following:

“(3) Where the Board has formed the reasonable view that the price at which long term residential care services is proposed to be provided by a particular nursing home is, all things being equal, materially in excess of the price at which long term residential care services are provided by other comparable nursing homes the Board shall have the power to request, by notice in writing, that the said nursing home provide the Board with a written explanation of the calculation of the price at which long term residential care services is proposed to be provided by such nursing home. In the event that the Board is not satisfied with a written explanation received under the terms above it shall have the power to request that the Minister as soon as is practicable, by notice in writing to such nursing home, designate a person to examine the records and accounts of such nursing home and to subsequently report the findings of such examination to the Minister and to the nursing home in question. A refusal on the part of a nursing home to comply with any notice pursuant to this section shall be construed as a withdrawal on the part of such nursing home from negotiations.”.”.

I am very much indebted to the Acting Chairman for not also ruling this amendment out of order. Section 41(1)(b)(iii), which was recently added I believe on Committee Stage in the Seanad at the behest of the Government, states:

“In performing its functions under paragraph (1)(ba) the Board may examine the records and accounts of an approved nursing home or of a nursing home the proprietor of which proposes to enter into arrangements under paragraph (1)(ba).”

I am indebted to Nursing Homes Ireland and various others involved in the provision of nursing home care who have been in contact with Senator Quinn, myself and others, including Eileen Gallagher, director of nursing at Ryevale nursing home, and Mary McCormack, director at Glenaulin nursing home, Lucan Road. The core issue is how the State deals with public nursing homes on the one hand and privately run facilities on the other. The section the Minister of State introduced on Committee Stage seems to be at variance with statements made by the Department of Health and Children in its publication, *A Fair Deal: The Nursing Home Care Support Scheme 2008*, which stated:

[Senator Rónán Mullen.]

Prices around the country are already known to the HSE and the Department and can be reasonably estimated already ... we are already aware of prices around the country and will not be obliged to reach agreements with any particular nursing home if its prices are unreasonable. We will seek co-operation from the private nursing homes' organisations.

However, what was proposed by the Government and accepted on Committee Stage was that the board may examine records and accounts of approved nursing homes. It is inappropriate for the National Treatment Purchase Fund as a monopoly purchaser to request information that is not in the public domain and especially commercially sensitive information in a competitive environment.

I accept that my amendment is somewhat lengthy. I propose that instead of the access all areas regime of being able to examine records, at the very least there should be a prior stage, namely, a request that the nursing home in question would submit its rationale for its proposed pricing. For example, if the NTPF is not in a position to get agreement with the nursing home on the prices to be charged, is it appropriate that following the Government's Committee Stage amendment, it would then be a straightforward matter of checking the records? Is it not more appropriate and fairer that there should be a request for the nursing home to submit the rationale for its pricing? If there is still no agreement, perhaps one could argue that there might be a case for viewing the records of the nursing home.

A number of issues are at stake here. One is the question of whether similar treatment is on offer to private nursing homes as distinct from public nursing homes. Is it not the case that with public nursing homes, it is a take it or leave it situation *vis-à-vis* the State. Their prices are out there and the State takes it or leaves it. However, with the privately run nursing homes a different regime seems to be proposed. The question must arise whether that is equitable.

The next matter goes back to an issue Senators Bradford and Fitzgerald, I and others raised earlier when we spoke about the quality of regime to which a person in nursing home care should be entitled. Surely there should be a certain set of standards to which nursing homes should adhere to guarantee the rights and dignity of people in long-term residential care. Provided they reach those standards there would be legitimate scope for the people involved in the provision of private nursing home care to operate commercially and to do a deal with the State. However, surely they should be doing a deal on the same basis as publicly run facilities do. Is there a danger that publicly run facilities might not be cost effective but are paid for none the less whereas private nursing homes are being exposed to a regime of the State insisting on viewing records? The amendment proposes a prior requirement of a request for the rationale to be given by the nursing home for its pricing structure etc.

Senator Feargal Quinn: I second the amendment. Senator Mullen has explained the rationale for the amendment very well. What he has said is quite correct and if the Minister of State does not find it possible to accept it, I would like her to explain why not. I received an e-mail from a representative of Nursing Homes Ireland which stated:

The bill also proposes that each Nursing Home will have to furnish a full set of accounts to the NTPF prior to fee agreement which is incomprehensible and unacceptable. Public nursing homes will not have to comply with this.

I would like the Minister of State to explain whether that is so. One of the objectives for the Minister of State as well as for us is to encourage the development of nursing homes. That has been the objective of the Government for quite some time. This amendment simply proposes that they should explain their rationale. If there is still no agreement after that I can understand

that the accounts should be examined. On that basis it does not appear correct that one rule would apply to public nursing homes with another applying to the private nursing homes when we are trying to encourage private nursing homes to be developed. I urge the Minister of State to give serious consideration to this amendment.

Senator Liam Twomey: On Second Stage I asked what would happen with public nursing homes given that they are on average twice the cost of private nursing homes. This is often because they provide an additional range of services, including physiotherapy and occupational therapy, and have more staff. There are also wage agreements with the HSE that might not necessarily apply to people working in the private sector. Will public nursing homes continue to receive a subsidy? A person who gets into a public nursing home gets a better service and is treated somewhat differently from someone who is deemed just to be appropriate for a private nursing home, which is more cost effective and towards which, therefore, the HSE would be pushing patients.

On Second Stage I asked whether there have been significant negotiations with the HSE and the staff working in public facilities. The Minister of State chose not to answer those questions at that time. I will ask those questions again and this time I focus completely on the cost difference between public nursing homes and private nursing homes. It has nothing to do with the varying costs between different private nursing homes.

When does the Minister of State expect the legislation to be enacted into law? Can I tell people that as of 1 September this is what the agreement will be? When commenting on the differences with public nursing homes and how they will be affected, I would like to know how the Minister of State, who has responsibility for the elderly, views the legislation. We have been told it is resource dependent, so it will have a fixed budget. What will happen when there is insufficient money? Will standards drop or will charges go up? Surely the Minister of State discussed that within the Department before this legislation was introduced.

Senator Ivor Callely: We had an interesting exchange concerning this matter on Second Stage. It is a relatively significant aspect of the legislation. Private nursing home operators would be very satisfied indeed if they were to receive exactly the same payment as public hospitals or nursing homes for the same bed given the same level of dependency. If that were the case, there would not be an issue in this respect. I have read some of these reports, although I am not too sure whether everyone in the House is familiar with them. A set of accounts published by a public hospital compared with one published by a private operator would be like chalk and cheese owing to the different level of service. During the debate on Second Stage, I mentioned one particular service provider — St. Mary's Hospital in the Phoenix Park — for which I have the height of admiration and appreciation given the level of services it provides and the improvements it has carried out. However, that hospital provides more than beds, a fact that is reflected in its financial statements. Equally, there is usually more than just a bed being provided by the public sector. Private operators are also encouraged to provide more than beds and many of them do so.

We now get down to the difficult aspect of people being asked to provide their accounts. I have strong reservations about private operators being asked to provide accounts. Are they accounts they submit to the tax man or are they ones required under stipulated headings for the National Treatment Purchase Fund? If so, will such accounts suffice? If we are asking the public authorities to supply their accounts — the published, audited accounts we receive from the HSE — the difference is like chalk and cheese.

Up to now the public bed operators were cushioned by certain benefits, including the fact that private operators had to adhere to an inspection system which public nursing homes could

[Senator Ivor Callely.]

avoid. I must say that if the same inspection regime had applied to public nursing homes as applied to private operators, they would have been closed.

Senator Liam Twomey: That is not true.

Senator Ivor Callely: It would be true for some, but not all of them. I invite the Senator to visit a few of them with me and he would certainly see that they would not have met the inspection regime private providers had to meet. It was probably wise that we inserted such provisions in legislation at that time, because we would not have been able to close all the beds on inspection and provide the required level of care and service. Perhaps it was done for specific purposes but it has now been brought up to parity so that all of them will be inspected by the same authority, although there was a proposal at one stage to have two different authorities. To answer the crossfire that came across the floor from Senator Twomey——

Acting Chairman: Through the Chair, please.

Senator Ivor Callely: I can certainly tell Senator Twomey that I am familiar with a number of these institutions. I have visited them and I assure the Senator that a number would not have met the inspection regime that was in place. Perhaps the Minister of State would like to answer that point, although it may be better not to do so on the floor of the House. I may be incorrect in what I am saying but I have my own view in that regard.

We have done much good work concerning nursing homes. The current provision of public beds shows we have come a long way in the past ten glorious years this country enjoyed. We invested heavily in public beds as well as additional services. Rather than just providing a bed, as happened heretofore, an array of secondary services, including physiotherapy, are being put in place both by private and public operators. That is very welcome. We have started to work on a level playing pitch but this matter is uneven. It is probably one of the last few items that will leave an imbalance. We must do something in this respect, but I do not know if it is good enough to take a Minister's comment as an indication that there will have to be a fair operation of what is proposed in the Bill regarding the NTPF. We cannot allow the Bill to be enacted as its provisions could currently be read by NTPF officials, seeking negotiations with a private operator and holding up progress on the supply of beds until certain accounting figures are produced. I feel we are somewhat off course on this matter, so we will have to ensure a level playing pitch, as we have done over the years on other matters. This is one thing we need to correct, so I appeal to the Minister of State to do so.

Senator Phil Prendergast: I apologise in advance for any duplication that may arise from my remarks, as I had to take a call and was absent from the Chamber for a while. I apologise to Senator Mullen if I refer to some of the points he may already have raised. There are many inconsistencies concerning eligibility for services, even between different regions. I have been contacted by many people in the nursing sector who are involved in delivering care facilities, and I have worked in the health service myself. I also have links to the Irish Nurses Organisation which has first-hand knowledge on what is happening. In that context, my remarks are factual. Ms Marie Carey, one of the owners of a nursing home in Nenagh, contacted me recently. She is in the Nursing Homes Ireland group and referred to the criteria involved and how services differ between regions. Everyone agrees that the current system of financing long-term care fails systematically. It is inaccessible to some, while others find it fairly easy to access.

The Bill has highlighted the unfair and inequitable system which now prevails. Section 40 is a cause for concern and this has been detailed quite well. There is no provision for an arbitration process in the event that agreement cannot be reached between the Minister's desig-

nated body, which is the National Treatment Purchase Fund, and the nursing home. There is a strong feeling that there should be an appeals system where the NTPF fails or refuses to agree to include a nursing home on the approved list. That is a glaring anomaly which should be addressed. Where the Minister's designated body and the person running a nursing home business fail to reach agreement, the matter should be determined by a member of a panel of arbitrators established by the chairman of the Chartered Institute of Arbitrators. That is a reasonable proposal which should be encompassed in the Bill. It will not invalidate or worsen the conditions for anyone involved. In addition, the section, as amended by the Minister of State on Committee Stage, is at variance with statements made by the Department of Health and Children. Senator Mullen raised this issue as prices around the country were already known and the Department would have been aware of them. Would it not be obliged to reach agreement?

The contributor to this part of the debate stated that if the National Treatment Purchase Fund had formed the reasonable view that if the price at which long-term residential care services were provided by a particular nursing home was in excess of that at which such services were provided by other comparable nursing homes, the Bill should provide that the National Treatment Purchase Fund should request the nursing home to provide the board with a written explanation of how the price was calculated. If the National Treatment Purchase Fund is not satisfied with the written explanation received, it should have the power to examine the records and accounts of any such nursing home and report the findings of such an examination to the Minister and the nursing home in question. This would provide for the inspection of records, to be preceded by a request that the nursing home in question submit the rationale for the proposed prices. This is a critical issue for members of Nursing Homes Ireland and addressing it in the legislation would remove the anomalies. I would like to hear the Minister of State's comments on this issue.

I thank Mr. Gary Downey and Ms Maria Carey from Silverstream Healthcare because they went to a lot of bother to make sure issues that had been raised and discussed in the Dáil Chamber were followed up here. The fair deal nursing homes scheme has been on the cards for a long time and is very complex. The needs assessment is subject to such scrutiny that sometimes we can miss the small but obvious things that can have cost implications. We are talking about equity and fairness. I will listen with great interest to the response of the Minister of State.

Senator Frances Fitzgerald: Senator Prendergast has been speaking about appeals, while Senator Callely eloquently made some pleas. It is clear, however, that the Minister of State has not brought an amendment before the House to deal with the issue which is the source of great concern to Nursing Homes Ireland. There has been a lack of amendments from the Government in response to the points made both in the Dáil and the Seanad which is very disappointing. There has been a very good debate, with some very important points made; therefore, the Government should be more open to accepting the points made by the Opposition. I do not know why it cannot take on board more of the constructive points made on the floor of the Dáil and the Seanad. It is a failing of our parliamentary system that more amendments are not introduced by the Government in response to very clear points made by the Opposition. This is a perfect example, in which there is clear concern in a particular sector that the Bill is discriminatory towards it. The points have been well made, but there is no amendment from the Government. Unless the Minister of State accepts amendment No. 31, I cannot see how the Government will have dealt with the issue. We have spoken to people involved in the sector who have made very relevant points on the issue.

[Senator Frances Fitzgerald.]

Fine Gael moved an amendment on Committee Stage that there be independent arbitration, but the Minister of State turned it down on the basis that everybody would seek to avail of it. The Government could write amendments in such a way that the arbitration process would be ring fenced in order that everybody would not end up going to arbitration, rather than agreeing a deal. In spite of what everybody has said, the Minister of State has not dealt with the issue. She has not listened to the points made and not brought forward an amendment to deal with them. This amendment is obviously an attempt to bring greater equity to the situation. Let us hear what the Minister of State has to say. People have concerns about the fact that there is no independent arbitration process. They believe there have not been enough negotiations with Nursing Homes Ireland and that the private nursing home sector will be placed in an inequitable position. It will be harder to survive in the industry if some of the problems with the Bill are not addressed.

It is proposed that there be no arbitration between private nursing homes and the National Treatment Purchase Fund on fee structures. Nursing homes have already agreed fees of €985 a week in existing HSE contracts, but it is now stated the fund will effectively inform private nursing homes of their fees. However, public nursing homes will state their fees to the fund, which is a direct reversal of the proposed policy for the private sector. Will the Minister of State explain the difference? The truth is that not one nursing home has been inspected and will not be until 1 July when there will be statutory provision. Perhaps the Minister of State might clarify the position. My understanding is that the inspection regime will begin to operate on 1 July. It is seen as inequitable that each private nursing home will have to furnish a full set of accounts to the National Treatment Purchase Fund prior to making fee agreements, while public nursing homes will not have to comply with this provision. How many inspections have been carried out? What will change from 1 July?

Senator Nicky McFadden: The idea that the private sector should have to furnish accounts and the public sector should not is unfair. I cannot understand this. There are differences in the two sets of figures. It is most unfair on those who are trying to run a business and provide the best possible care in private nursing homes. There is no appeals mechanism and I believe the people who need care will find the system wanting. It is regrettable that the people concerned and their families will have no means by which they will be able to appeal a decision made by the Department or the National Treatment Purchase Fund. It will have a serious effect on the way people access care.

Deputy Áine Brady: Amendment No. 31 limits the power of the National Treatment Purchase Fund to examine the records and accounts of approved nursing homes. The amendment is legally ambiguous, as the interpretation of what is reasonable could differ in the view of the National Treatment Purchase Fund and the private nursing home. It would also be administratively cumbersome and time consuming. It would require a number of written notices by the fund, the nursing home and the Minister, and the designation of a further individual to examine the accounts of the nursing home and prepare a report. The amendment would also exclude the board from receipt of the final report and is unclear with regard to who would determine the final outcome or agreed price, if any. As such, it would leave a lacuna within the legislation that would serve to undermine the entire scheme. The existing provision states the fund may examine the accounts of private nursing homes wishing to be a part of the scheme. As such, it is enabling rather than prescriptive. It ensures the fund is legislatively supported in its role to seek a fair price for nursing home care which represents value for money for the taxpayer, as well as to guard against price collusion and cartel behaviour.

Senator Mullen raised the issue of quality and standards in nursing homes. The Health Act 2007 provides for the establishment of the Health Information and Quality Authority and the registration and inspection of all nursing homes by the office of the chief inspector of social services which is part of HIQA. This will replace the current system, set out under the Health (Nursing Homes) Act 1990, where the HSE registers and inspects private nursing homes only. All private nursing homes are inspected twice a year under this system which will now include public nursing homes also. Formal standards are a key requirement for inspection and registration. The Minister for Health and Children approved the national quality standards for residential care settings for older people in Ireland in February. There are 32 standards, under seven groupings: rights, protection, health and social needs, quality of life, staffing, the care environment and governance and management. These standards acknowledge the unique and complex needs of the individual at the centre of care and are based on service providers delivering a person-centred and comprehensive service that promotes health, well-being and quality of life. The chief inspector will inspect residential centres against these standards. The inspections will commence on 1 July 2009.

Each public nursing home will have to publish the price of a bed but also how this price was decided. The public and this House will know how the price was arrived at because it will be laid before the House in accordance with section 33(2).

Senator Twomey is concerned at the transparency of the level of funding committed to the scheme each year. A dedicated subhead, B16, has been established within the HSE Vote, Vote 40, for the purpose of the scheme. This amounts to some €909 million this year, including €55 million for the fair deal scheme. The funding available for the scheme will always be ring-fenced and will be clearly identifiable within the Revised Estimates of public expenditure. Funding within the subhead will be the subject of careful monitoring and the Department of Health and Children has already agreed a set of reporting requirements in this regard.

Furthermore, under section 31 of the Health Act 2004, the HSE must prepare and submit a service plan. The Minister has stipulated that the service plan must report on the number of people provided with support under the scheme. The current plan reflects this within its performance activity targets for services for older people. The HSE will also include in its annual reports any information that may be specified by the Minister for Health and Children.

The provision enabling the National Treatment Purchase Fund to view the accounts of private nursing homes is enabling rather than mandatory. In an area of acknowledged demand for services and a sector that will have to respond to an increasing demographic trend, this enabling provision is a vital mechanism to ensure value for money for the taxpayer and to underpin the resource cap for the scheme.

The National Treatment Purchase Fund will publish a code of conduct with regard to its treatment of this material. The code will guarantee that the information is treated as highly confidential and commercially sensitive and will obviously not be disclosed to third parties. The National Treatment Purchase Fund routinely obtains accounts information from private hospitals as part of negotiations with the latter. The prices agreed with the National Treatment Purchase Fund will be subject to periodic, generally speaking annual, renegotiation. The public nursing homes will have to publish their bed prices and also a list of all the cost components, such as the goods and services, that comprise the bed price. A comparable or arguably greater level of transparency is being demanded of the public sector. I do not accept this amendment.

Acting Chairman: As this is a debate on Report Stage of the Bill, I cannot allow Senator Twomey to contribute unless he has a point of order.

Senator Rónán Mullen: It is not that I am special but I tabled the amendment and this is a procedural matter, as I am sure Senator Twomey knows.

I am disappointed that the Minister of State has not accepted my amendments. I listened carefully to her response. This amendment does not seek to limit the ability of the board to access records. It merely seeks to postpone it by providing that in the first instance there would be the ability for the nursing homes in question to provide a rationale for their pricing. The point at issue was expressed very well by Marie Carey of Ashlawn House Nursing Home in Nenagh, who was quoted by Senator Prendergast. She referred to the common aspiration for legislation that is fair, transparent and that supports the provision of the highest standards of nursing home care. Notwithstanding what the Minister of State said about due assessment of the pricing structures of the public facilities, I am concerned that the refusal to accept my amendments will bring about a greater likelihood of disparity in the care provided in nursing homes at the time when we should look for common high standards. A nursing home may charge above the odds compared to other nursing homes but this may be because it offers extra quality facilities. By not providing for a rationale for the fee structure of nursing homes, the extra services provided, which may justify extra cost, will not be taken into account. I fear we are still fumbling in the greasy till and considering this only through the lens of cost. We are not looking through the lens of a desire to promote a culture of excellence in nursing homes.

We can consider two comparable persons of old age going into long-term nursing care and neither has property that could be availed of under the heading of ancillary State support. The income to which each has access is €800 and the State may take 80% or €640. Perhaps I am considering this too crudely but in one case a nursing home may provide a cheaper service and the State will only back that person's care to the tune of €160 a week. In the other case, where the nursing home charges €1,000 a week, the State is backing the person to the tune of €360. Four fifths of the person's income is taken but, because some nursing homes, with justification, charge more than others the State may be required to pay more in that situation and this may not be recoupable if there is no property to which the State might have access after the death of the person. I am concerned that cost is driving all of this.

It is appropriate that the Minister of State considers this amendment, which allows the window of possibility for a nursing home to give a rationale for costs and to justify them by reference to the extras being provided. This is significant because we have not got to the high quality baseline in terms of the assessment of standards in nursing homes. This is only beginning.

The Minister of State mentioned HIQA in response to a matter I referred to on Committee Stage. It is all very well to talk about the criteria by which nursing homes are judged. I raised the question of the minimum dataset that was proposed in the HIQA document. This will not apply the universally recognised high standard of data sourcing and retention, having regard to the records of each individual in nursing home care. We are a long way from having a proper, thoroughgoing assessment of what is to be provided in nursing homes, having regard to the needs of individuals in long-term residential care. For that reason the State should look closely at facilitating nursing homes in allowing them to give a rationale for the pricing structure. I do not know if it is too late to ask the Minister of State to reconsider this issue before the legislation is passed in the Dáil. What is being proposed is not the limitation of the ability of the National Treatment Purchase Fund to access records but that, prior to accessing such records, an opportunity should be given to the nursing home service provider in question to give a rationale for the pricing structure.

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

The Seanad divided: Tá, 25; Níl, 22.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.

Leyden, Terry.
MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O’Brien, Francis.
O’Donovan, Denis.
O’Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Fitzgerald, Frances.
Hannigan, Dominic.

McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O’Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Tellers: Tá, Senators Déirdre de Búrca and Diarmuid Wilson; Níl, Senators Rónán Mullen and Feargal Quinn.

Question declared carried.

Amendment declared lost.

Government amendment No. 32:

In page 54, to delete lines 1 to 4 and substitute the following:

“47.—(1) Subject to *subsections* (2), (4) and (9), a specified person may act on behalf of another person in relation to any matter under this Act, including, but not limited to, any application, appeal, review or the giving of consent under *section* 7(13), where that other person is not of full mental capacity.”.

Deputy Áine Brady: This amendment clarifies and renders explicit the policy intention underlying section 47, namely, that a specified person may act on behalf of a person of diminished mental capacity in regard to any matter under the legislation apart from matters specified in section 47(9). The matters specified in section 47(9) are to act as a care representative and to request payment of ancillary support unless the specified person is also appointed as a care representative. I thank Senator Norris for highlighting the need to clarify this section and ask all Senators to support this amendment.

Senator Rónán Mullen: I welcome what the Minister of State is seeking to do in regard to this amendment. It is certainly a sign of her openness, which she has shown on at least two other occasions today, to take on board specific, constructive suggestions, albeit in fairly technical matters. We would certainly have liked more of those suggestions to have been taken on board but I do not want to take from my gratitude in general terms.

Does what the Minister of State propose, by way of an amendment, achieve what she intends? From my reading of this amendment, it is certainly clear that she is extending the competence of a specified person to act on behalf of another person to include situations which relate to the giving of the contents of the care assessment to the nursing home provider in question. To be a specified person, the person for whom one is acting must lack mental capacity. That is a matter which requires to be determined in regard to each decision that must be taken.

Does section 21, which provides for the determination of a person's capacity or otherwise in situations relating to the issue of ancillary State support and the property dimension of things, deal with the issue or does it legitimate or provide for the assessment of a person's mental capacity having regard to the separate issue of whether he or she is in a position to know or understand the consequences of giving consent to the giving of his or her care assessment to the nursing home provider? Is that separate determination of a person's capacity to deal with that issue provided for under section 21 or is an amendment also needed in that regard to provide for such a determination?

Senator Frances Fitzgerald: I welcome this amendment because it sets out in more detail the types of action one can take on behalf of a person not of full mental capacity. I welcome the precise wording of the amendment which states "but not limited to, any application, appeal, review or the giving of consent under *section 7*". This issue of reaching out appropriately to people and assessing them comprehensively would have been strengthened had the Minister of State accepted amendment No. 21.

When the Bill goes back to the Dáil, will the Minister of State consider looking at amendment No. 21 again because it deals with capacity issues in a more comprehensive way? That would be helpful. It is important mental capacity is considered when looking at care needs or making an assessment. I welcome this amendment which we will support.

Senator Nicky McFadden: I also welcome the amendment. It is a little ironic that for the first time in the Bill, the words "mental capacity" are used. I am glad the Minister of State has acknowledged that a person's mental capacity must be taken into account. I regret she did not use those words when speaking about the evaluation of a person's needs. When the Bill goes back to the Dáil, she might consider this.

Senator Ivor Callely: I appreciate the Minister of State tabling this amendment. There was much debate on the mental capacity of the applicant and the role of another person. It is nice to see that, through the tabling of this amendment, the Minister of State has taken on board the issues raised during the debate. I congratulate her and the Department in that regard.

Senator Feargal Quinn: I, too, express my appreciation to the Minister of State. The omission of the words "mental capacity" would have been a great error. What is particularly attractive is that it is not limited to any application appeal, review or the giving of consent. I appreciate the Minister of State listened to the Seanad on this matter. Senator Norris must be given credit for his argument for this provision. It is a reminder what the Seanad can achieve in its debate due to its less contentious nature.

Deputy Áine Brady: The Parliamentary Counsel is happy that this will achieve the objective. We are not extending but merely clarifying the ability to act in line with existing policy intention. The determination of capacity under section 21 is separate to section 47 and the role of the specified person. The care needs assessment will consider capacity generally. Section 21 is concerned only with the ancillary State support or the loan section of the fair deal.

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 33 in the names of Senators Fitzgerald and McFadden is deemed out of order as it involves a potential charge on the Revenue.

Amendment No. 33 not moved.

Bill, as amended, received for final consideration.

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

The Seanad divided: Tá, 28; Níl, 19.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.

MacSharry, Marc.
Norris, David.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O’Brien, Francis.
O’Donovan, Denis.
O’Malley, Fiona.
O’Toole, Joe.
Ormonde, Ann.
Phelan, Kieran.
Quinn, Feargal.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Fitzgerald, Frances.

Hannigan, Dominic.
McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Phelan, John Paul.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

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

Question declared carried.

Sitting suspended at 4.35 p.m. and resumed at 5 p.m.

Dairy Industry: Motion.

Senator Paul Bradford: I move:

That Seanad Éireann:

[Senator Paul Bradford.]

- recognising the crisis facing the dairy industry and the threat posed to the future viability of the sector;
- considering milk prices have fallen to a low of 20 cent per litre, significantly short of a break even point for suppliers;
- noting the value of the dairy industry, with 2008 exports worth in the region of €2.02 billion to the economy;
- considering the negative contributory factors of an overproduction in milk globally, a fall-off in south Asian market demand and the global economic downturn, which have added to the domestic crisis; and
- recognising the immense financial pressures on farm families and the consequent danger that many dairy farmers will be forced to abandon production;

calls on the Government to:

- deliver a comprehensive framework in consultation with industry to bring about the restructuring necessary to deliver long-term viability to the sector;
- introduce export credit insurance measures in line with other EU member states;
- seek co-operation from financial institutions in adopting a flexible approach which is cognisant of the current difficulties facing the sector;
- take real action to bring down input costs for producers; and
- negotiate more aggressive market support measures at EU level to deliver a price above the cost of production for Irish dairy farmers.

I am pleased to present this Fine Gael motion to the House. It is disappointing that we have to bring the crisis in the dairy industry to the attention of the House once more. I am sure the Minister for Agriculture, Fisheries and Food recognises the profound crisis in the industry. We are speaking about the industry at a time of general economic crisis in the country. Many jobs are being lost in all sectors. There is serious concern about the future of the economy and the sustainability of the way of life enjoyed in rural Ireland for generations. We should recognise the key role the dairy industry plays in sustaining the economy of rural Ireland. Most importantly, from an industrial perspective, it creates jobs in rural Ireland. It forms a major part of Ireland's economic picture and accounts for a significant proportion of our export figures. I note with the gravest concern the scale of the current difficulties in the industry which faces a real crisis of finances and confidence.

Each day those of us who come from rural constituencies listen to the fears of the people of rural Ireland about where the dairy industry is going. Sadly, the facts and figures speak for themselves. The bottom line is the price of milk. Milk is now being sold for little more than 20 cent a litre, which is neither economically nor financially viable. Almost on a daily basis I hear from dairy farmers about their grave personal concerns for the state of their family finances. Many doubt whether the farm family unit can continue to be viable.

Great work has been done in recent years to plan the development of a new generation of farmers. I refer to the establishment of the installation aid grants scheme, for example. Various advisory courses and Teagasc programmes have been designed to assist the next generation of farmers and farm families. However, many believe their sons and daughters have no future in

the dairy industry. Herds of dairy animals are being offered for sale on the classified pages of the daily newspapers and, sadly, the *Irish Farmers' Journal*, as people leave the industry, the land and rural Ireland. The ultimate price is being paid as a result of the current crisis in the industry. All of us, particularly the Minister and his Government colleagues, face a big challenge if we are to ensure programmes, schemes and policies are put in place domestically and at EU level. That is necessary if we are to halt the alarming drop in milk prices and restore confidence and hope in the future of the industry.

This debate is taking place in a multifaceted context. The milk quota regime is one of the main issues to have been debated in this House and at all levels of the Oireachtas in the last ten or 15 years. When milk quotas were introduced in 1983, before I entered politics, they represented a new departure from an agricultural perspective. Huge concerns, worries and objectives were highlighted at the time. The milk quota regime has worked to a certain extent in the last 25 years. It has provided for a degree of certainty and stability and allowed people to plan ahead. However, we are now reaching the end of the regime. The difficulty associated with that process is another source of doubt that will have to be faced by the farming community. A significant degree of long-term planning will be required to that end. The crisis about which we are speaking can be summarised simply. In asking dairy farmers to sell milk for 20 cent a litre we are asking them to do the impossible. Every litre or gallon of milk sold at that price level is being produced at a loss, which is unsustainable in the long term. The Minister needs to recognise the need for the Government and the European Union to seriously step up to the plate by drawing up policies and plans and putting in place a foundation on which we can build. There needs to be a response to the crisis at EU and national levels, as well as at local level in conjunction with the co-operative movement.

I tried to frame my motion in a positive and inclusive manner and I am slightly disappointed that the Government has tabled an amendment to it. I challenge any Senator on the other side of the House to disagree with anything contained in the motion. We are trying to be positive as we call on the Government to respond to the crisis in a realistic manner. For example, we want it to “deliver a comprehensive framework in consultation with industry to bring about the restructuring” needed. We have called on the Government to tackle the issue of export credit insurance and co-operate with the financial institutions. We want it to take action to reduce the input costs of producers and negotiate more aggressive market support measures. The five proposals that form the core of the Fine Gael motion would produce the response required to give hope and confidence back to the industry.

The first part of the motion calls on the Government to reflect on the need for restructuring within the industry in order that it can be viable in the long term. We have all favoured restructuring in the past 20 years. I am aware from the Dairygold experience in north Cork that restructuring can have negative effects such as the streamlining of creameries and co-operatives, as well as job losses. Milk must be processed in a more efficient, cost effective and modern manner. However, it needs to be done in a balanced fashion to ensure the restructuring, while boosting income, does not destroy rural economies in terms of job losses. The Minister has been to and made aware of the crisis facing towns such as Mallow and Mitchelstown which has stemmed from the massive job losses and redundancies in Dairygold on foot of restructuring. While one can argue with some of the policy decisions taken, one cannot argue against the need for ongoing restructuring to ensure competitiveness and economies of scale are achieved. However, it must be done in a balanced fashion, directed, where possible, by departmental thinking. I am interested in hearing the Minister's views on this aspect.

We call on the Minister to progress export credit insurance measures, although I appreciate that he is trying to take steps in this direction in conjunction with his EU colleagues. He knows more than I about the urgency attached to making progress on the issue. Unless progress is

[Senator Paul Bradford.]

made in the near future, the future will remain not only bleak but also devoid of hope for thousands of dairy farmers. I ask the Minister to put an enormous effort into trying to progress the issue.

I believe we speak for all parties in the House in urging the financial institutions, including banks, building societies and credit agencies, to recognise the scale of the crisis in the dairy industry and try to deal in a most generous and flexible fashion with their customers in the industry. I refer to the farmers with whom they do business. There has been a tremendous record of engagement between dairy farmers and the banks, building societies and other financial institutions since Ireland joined the European Union. The co-operation between banks and farmers has resulted in significant developments in the dairy industry, including massive on-farm investment in dairy equipment and modernising dairy farms. Much of the work was grant-aided, which I welcome, by the Minister's Department and the European Union, but, sadly, thousands of dairy farmers are to the pin of their collars in trying to meet their financial repayments. They are facing Armageddon. Flexibility is required from the banks and other financial institutions. At a time when the State and the taxpayer have come to the aid of the financial institutions, we ask but should demand that the financial institutions be flexible, to the maximum degree, with their customers and, in the context of this motion, farming families to enable dairy farmers and the agriculture sector in general to continue to survive. It is in everybody's interests, not least those of the financial institutions, that credit facilities to the maximum possible degree be made available to ensure the viability of the dairy industry.

In the context of the motion, we ask the Minister to tackle input costs for producers. He is very much aware of the increase in the cost of feed and fertilisers in recent years. The rate of increase has probably eased recently, but a graph of input costs in recent years would show a significant and steep upward curve which has caused serious financial difficulty. A meeting of the Joint Committee on Agriculture, Fisheries and Food today considered the issue of product prices, supermarket prices, etc. One of the major difficulties facing farmers is that, at one end of the chain, product prices have fallen dramatically. The prices achieved by farmers, be they dairy farmers or farmers involved in any other sector of the industry, have fallen dramatically, but, on the other side of the chain, input costs have risen dramatically. That equation is not sustainable. A strong engagement by the Minister and his Department is required to bring a degree of balance to the farm input cost side of the equation and to give hope and confidence back to the industry.

I want to reflect briefly on the final part of the motion which calls for market support measures at EU level to deliver a price above the cost of production. It is a simple sentence to repeat but a difficult equation to which to respond. The Minister must accept that we need to take our policy argument and powers of persuasion to a new level on the EU stage to make progress. There has been a tradition at times of extreme crisis in the dairy industry and other sectors of Irish farming, particularly in 1982 and 1983 when the milk quota regime was introduced, of the Minister for Agriculture and the political establishment led by the Taoiseach engaging profoundly at EU level to bring about a resolution and restore hope and confidence to the industry. I hope the Minister and his Cabinet colleagues up to the level of the Taoiseach will take on this challenge to the top echelons of the EU political machinery as help is needed at that level. We need programmes, schemes and support from the European Union to ensure the dairy industry remains alive. I appreciate it is a big challenge, but it is a prize worth seeking. Our industry, its viability, the futures of the tens of thousands who depend on it and the billions of euro worth of exports that flow from it are at risk. I ask the Minister and his Cabinet colleagues to put their shoulders to the wheel and work with the industry, my party, the political establishment and at EU level to stem the tide. When we meet dairy farmers, they are almost

devoid of hope. They are genuinely concerned about the future. They see no future for their sons and daughters in the industry. We need to reverse the problems and begin to march forward.

Senator Paudie Coffey: I welcome the opportunity to formally second the Fine Gael motion which is timely in the light of the crisis facing the dairy sector. I welcome the Minister to listen to the debate and hear the musings and thoughts of Senators on all sides of the House in reflecting on the reality on the ground. Like us, I am sure he has met many farmers who are suffering on a daily basis in the current economic climate. We are dealing specifically with the crisis in and the challenges facing the dairy sector.

I am disappointed that the Government parties decided to table an amendment to the motion which is a reasonable one. It calls on all stakeholders in the dairy sector to ensure a meeting of minds to work out mechanisms to try to assist the sector in these challenging times. We recognise the crisis facing the dairy industry and the threat posed to its future viability. This is accepted across the House.

Milk prices have fallen to a low of 20 cent a litre, significantly short of break-even point for suppliers. A young farmer with whom I spoke today told me he received just over 20 cent a litre, an all time low for him as a producer since 1983. It costs him 27 cent a litre to produce milk through the achievement of great efficiencies. One has to take account of such losses in the business plan of any business or small enterprise. Essentially, farming is a business which needs to pay its way. In this instance, the farmer concerned needs to be able to make a living for himself and his family.

All the forecasts indicate that for the foreseeable future farmers will run their enterprises at a loss. That will introduce major cash flow problems and problems concerning the viability and financing of farm enterprises. That is the reality. Some farmers who had hired labour had to let them go because they could not afford to pay them. That is one of the effects of the crisis. The farmer to whom I spoke has reduced resources with which to run an efficient farm enterprise and can no longer meet labour costs. He has to milk more than 200 cows on his own and has a young family. As Senator Bradford said, the gloom is closing in on such farmers. Many of the people concerned are extremely progressive and have invested in their farms which they inherited, have been in their families for many generations and have contributed enormously to the local rural economy. However, they are now in a position where they have little hope.

The people to whom I refer have been extremely critical of the banks. I ask the Minister and the Government to take up this matter with the banks, particularly in circumstances where conditions are being put in place in respect of guaranteeing and bailing out such institutions. Banks are trying to restrict the flow of cash to farmers and small businesses. On almost a daily basis there are reports about viable propositions which have been evaluated and approved by expert accountancy firms and others being put to the banks, but the latter continue to restrict the flow of cash to these enterprises. This is having a major effect on farmers.

Many of the farmers to whom I have spoken are of the view that if the current trend continues, their businesses could go to the wall within a year or two. As a result of the investment they have made in their farms, they have large mortgages which they must repay. If labour, energy and other related costs are as high as appears to be the case, the dairy sector — an indigenous industry of which we have always been proud and which is responsible for a quality product readily identifiable as being Irish — is in trouble.

I live in County Waterford which is also home to over 790 farmers. The dairy sector is huge and the average quota in the constituency is over 300,000 litres. If these farmers are to suffer,

[Senator Paudie Coffey.]

the heart will be torn out of the local economy and the pressure on their families and local shops and other rural enterprises will increase. A large proportion of these difficulties stem from the lack of credit available. Processors are not handing over milk cheques as quickly as they did in the past. In addition, the amount of money on offer from the processors has decreased. One farmer to whom I spoke informed me that his milk cheque for 2008 was €16,000, whereas that which he received for the current year only amounts to €12,000. The processor — Glanbia — takes over €4,000 out of it. In such circumstances, there is very little left for the farmer to run his business and provide for his family. The position is that basic.

There have been delays in the payment of farm investment grants. In addition, the 40-40-20 percentage basis on which such payments are made has given rise to difficulties. Some farmers have received the initial 40%. However, they badly require the next tranche of 40% in order to keep their businesses in operation.

Action is needed in the various areas to which I refer. The banks have a large part to play in this regard. The Government also has a major role to play in ensuring the banks restore the flow of cash to these farmers. If the latter does not happen, many of their enterprises will go to the wall.

Many processors and co-ops have come under fire with regard to the way in which they operate. However, I must point out that in comparison to those enjoyed by retailers, their margins are quite small. This is despite the fact that they carry out much of the work in the form of collecting, processing and pasteurising milk. There are many overheads and energy costs with which they must contend in this regard. They are then obliged to deliver the finished product to retailers, supermarkets, etc. It appears that processors only obtain 16 cent for each litre of milk produced and are expected to pay for all of the various activities to which I refer out of this. The retailers make approximately 53 cent a litre of milk. That is a huge margin compared to those of farmers — the primary producers — and processors.

The Fine Gael motion represents an attempt to try to bring all sides together, in a political sense, in order that we might develop mechanisms — whether nationally, through the European Union or farm organisations working in co-operation with producers, processors and retailers — designed to keep the sector alive. If the current level of unsustainability continues, not only farmers but also processors will go to the wall. Processors are sometimes obliged to make difficult decisions and scale back their operations. The latter is due to viability issues. In the United Kingdom one of the major processors went out of business last year. If the same was to happen here, there would be a major void in the economy. There is no point in producing milk if there is no one available to process it and sell it on to retailers.

At the recent protests in Luxembourg the chairman of the Irish Dairy Board, Mr. Michael Cronin, delivered a stark warning when he stated long-term damage would be done to the dairy sector unless the European Commission continued to support farmers and processors through the current income crisis. His comments represent a serious call for help. The Houses of the Oireachtas and the Government can play a part by lobbying the European Commission to support the farming industry during this critical period. The European Union plays an important role in supporting Ireland's economy and its agri-sector. However, it is imperative that the EU authorities, like politicians in this country, think outside the box in developing mechanisms to try to ensure viability is maintained in the dairy sector. In the current climate farmers cannot afford to be left isolated.

As stated, my main focus is on the banks and the restoration of cash flow. In order that we might navigate our way through the difficulties in which we find ourselves, it is important to ensure the banks will restore the flow of cash to farmers. If the Department makes the pay-

ments now due to farmers under the farm investment scheme, this would alleviate, to some degree, the problems encountered.

Other jurisdictions have put in place insurance schemes in respect of milk prices. Under these schemes, when milk prices are high, a levy is taken from farmers who do not receive the same high level of pay for the milk they produce. Subsequently, when there is a downturn — as with everything else, the price of milk goes through cycles — a subvention can be provided. Did the officials in the Minister's Department ever consider putting such a scheme in place? I accept that developing a scheme of this nature involves thinking outside the box, particularly in the context of ensuring viability by imposing a levy when times are good in order that a subvention might be provided when they are not.

I will be interested in hearing the Minister's views on this matter. As parliamentarians, we all have views to which attention must be paid. Many of us represent members of the farming community. It is important that the people concerned have a voice in the national Parliament and that we respond to the difficult plight in which they find themselves.

Senator John Carty: I move amendment No. 1:

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

- recognising the current severe downturn in dairy product prices and the direct economic consequences arising for the sector at producer and processor levels;
- mindful of the need to address the issue of competitiveness at farm and factory level; and
- cognisant of the role that EU market management mechanisms play in stabilising the milk market;

commends the Government's

- continuing efforts to secure the best available market management supports at EU level;
- ongoing efforts to extend existing support measures in order to stabilise the market; and
- policy of support for an efficient and cost competitive dairy sector at producer and processor level, and
- supports the Minister's efforts at the EU Agriculture Council to
- extend intervention purchases of butter and skimmed milk powder beyond the end of August;
- extend the closing dates for private storage aid; and
- remove the ‘free at frontier’ price for cheese, that is blocking the use of export refunds for certain cheeses.

I welcome the Minister and look forward to his contribution. I welcome the motion before the House because the matter to which it refers deserves a great deal of attention. The dairy industry and the farming community are experiencing an extremely difficult time, with the price of milk at an historic low. To a degree, we are suffering as a result of the fact that the price of milk reached a record high in 2007. In addition, dairy markets are extremely weak.

[Senator John Carty.]

Turmoil in the international financial and banking sector has also contributed to the difficulties we face. Prices were so high in 2007 that there was an increase in global supply. The recovery in New Zealand milk production following a drought-related decline was also a factor.

In the light of the current low price, everyone agrees farmers face severe difficulties. The position is exacerbated by the fact that producer prices are below the cost of production. It is vital, therefore, that the European Commission's efforts to stabilise the situation should continue and, where possible, be intensified. In recent months the Minister has engaged in a great deal of lobbying at EU level on measures such as export refunds and internal subsidies which have been suspended since 2007 as a result of the high price of milk. During the negotiations relating to last year's CAP health check he argued strongly and, ultimately, successfully for the retention of the dairy market management mechanisms. Since the conclusion of those negotiations, he has repeatedly pressed the Commission and Commissioner Fischer Boel for the early introduction of supports to restore confidence and create a floor for prices.

Following the Minister's intervention, the Commission has, since the beginning of the year, reactivated a range of support measures to help stabilise the dairy market. I have no doubt the Minister will allude to those in his speech, including the storage aid for butter which was introduced two months earlier than normal, as well as the public intervention schemes for butter and skimmed milk powder, SMP, that were opened, which allowed the purchase of product to set limits at fixed prices. Since then, the Commission has continued to buy butter and SMP into intervention and EU prices have stabilised, albeit at a low level. Ireland and other member states continue to stress the importance of continuing to accept butter and SMP into intervention at levels close to the intervention purchase price under a subsequent tender system when the mandatory limits have been reached.

There is scope for further action and I am aware the Minister has pressed the Commission on a number of fronts. In the current market situation, where cheese prices have dropped considerably, the free-at-frontier price for cheese that is blocking the use of export refunds should be removed. This is a self-imposed technical impediment that is no longer warranted and is hindering exports of Irish cheddar in particular. Intervention purchases of butter and skimmed milk powder should be extended beyond the end of August, as should the closing dates for private storage aid. Given the ongoing weakness in the market situation, the extension of these schemes would greatly assist the sector and give it a much needed boost. In addition, there is greater scope for exports of dairy products outside the EU and more attractive export refunds which would greatly improve the export potential of the Community. That would be of great benefit in this regard.

Milk quotas have been mentioned, but I believe we must be careful in this regard. There is a suggestion abroad that EU quota increases are the reason for the current low prices for milk. This is not a valid argument and we should be very careful about this. The fact is milk production is below the level it was at before the quota increase took effect in 2008. If EU production is to be constrained by quotas, that will prevent Ireland from benefiting from future upturns in dairy markets and in that scenario the only winners will be our global competitors, of whom there are many.

In the retail sector, over recent weeks we have seen one of the major multiples in this country cutting out Irish brands and introducing its own home brands. A number of foods are suffering from this, such as Dubliner cheese, Brennan's bread, Clonakilty sausages and other products produced by the farming community. They are being crammed into small spaces. The information I have is that Kerrygold is vying for room in that multiple's supermarkets while Danish butter and other dairy products are being allocated more space, which is most worrying. I appeal to Irish consumers at this stage. While there may be a short-term gain from getting

cheap food, the day will come, if our people are put out of business, when consumers will pay dearly for this. Our farmers will be out of business and we will be importing much more at prices dictated by the multiples. This would be regrettable so we should be very careful in case this happens.

The Minister has done a good job through his negotiations in Europe and brought a number of things to the Commission's attention. He has been consistent in arguing for better prices and supports and through his good offices has been able to get Brussels around to his way of thinking. However, Europe will have to play a bigger role in this to ensure at all times we will have enough food because I believe that in the next few years there will be food shortages and therefore we have to keep the farming community and our dairy producers in business. If not, we will ultimately pay a high price. It might not happen within the next five to seven years but it is definitely on the cards and we should be aware of the dangers.

I again welcome the Minister to the Seanad and look forward to his presentation as I am sure he will have many important points to lay before the House.

Senator Feargal Quinn: I wish to share time with Senator David Norris, with the permission of the House.

The Minister for Agriculture, Fisheries and Food is very welcome and I am delighted to see him. It should be noted that I always call him the "Minister for Food and Agriculture" because I believe food depends on the marketplace and the customer. I have some slight problems with what Senator Carty was saying about Danish butter taking the place of Irish butter on the shelves and apparently blaming the multiples. I believe it is up to the customers who rule the marketplace. We would not have a market otherwise and without a market there would be no producers either. It depends on the customers buying food.

To ensure it is profitable for the farmer to produce, two things must happen. The farmer must either cut his or her costs or he or she must get a higher price for products. I recall being at the Irish Management Institute annual conference in Killarney in 1985 when Avonmore brought down to me samples of a product, at my request, namely, milk in a carton as against milk in a bottle. I take that as an example of the innovation Avonmore as a producer could come up with at that time. I am a great believer in do it yourself and not calling on the Government to do everything. The history of dairy farming in Ireland is based on various successful co-operatives which started 150 years ago and developed throughout the late 19th and 20th centuries to become the very successful enterprises they are now.

If what Senator Coffey has said is right, that it costs farmers 27 cent to produce a litre of milk for which they only get 20 cent when they sell it, and I have seen those figures before, then the balance must be found in some way or another but it will not happen by asking the Government to do something about it. I am a great believer in the free market economy and maintain that we have to convince people that this is the way to address our difficulties. I am unhappy when I hear taxi drivers saying the number of taxis should be limited. Before we know it, the grocers will be calling for a limit on the number of grocery stores so that they can get a better living as well. To my mind, a solution must be found which is dependent on the marketplace.

Around the world, however, governments are changing. They are now beginning to support the banks, for example, something they would not have done a few years ago. They are supporting the motor car industry as well, as has been done in America and Germany. I can understand that changes are taking place and the Irish Government has learned that the way to support industry is through reducing tax and encouraging incentives, which seems to me to be a much

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better approach. The Irish Financial Services Centre is a very good example of what has happened in this regard.

What can the Government do? I welcome the fact that the European Commission decided last Thursday to increase export refunds for butter, skimmed milk powder and whole milk powder. The aim is to reduce pressure on the industry. However, I believe further urgent action is needed to help the industry because it plays such a large part in our economy. I support the call for the more aggressive use of export refunds to sell dairy products outside the EU, perhaps using them as Third World aid. We need to make efforts to restore customer confidence in China. I had the opportunity to be in China last year. It is a massively expanding market but it had a major tainted milk scandal last year. I wonder if the Government, Bord Bia or the National Dairy Council are doing anything to promote Irish dairy products in China. The food industry in Europe is worth nearly €1.3 billion and we need to support the renowned Irish quality dairy producer.

The German Chancellor, Angela Merkel, has just agreed to tax breaks to help farms struggling due to falling food prices. Perhaps we need to consider something along the same line. There are things we can do but let us not ask the Government to do everything; let us do something ourselves.

I was in the United States recently and was impressed by Kroger, a company with 2,000 branches which is conducting an integrated campaign this month to promote the nutritional benefits of dairy:

Joining the National Frozen & Refrigerated Foods Association Movement to recognise June as national dairy month, the supermarket operator is using print, in-store and on-line materials to pitch affordable prices and healthy consumption.

May I say one more thing before handing over to Senator Norris?

Senator David Norris: Please. Senator Quinn may take as long as he likes.

Senator Feargal Quinn: There are challenges ahead of the dairy industry, and two particular challenges must be faced up to, one being sustainability. There is little doubt that sustainability will threaten the cattle, meat and, therefore, the dairy industry because of the trends taking place. If the efforts being made ignore that issue, people do not recognise the challenges that face them in this area. Sweden is promoting climate-friendly food choices:

Guidelines for climate-friendly food choices developed by the Swedish authorities recommend citizens to reduce their meat and rice consumption as a way of reducing greenhouse gas emissions. The first of their kind, the guidelines are now being sent out for reactions and inspiration from other EU countries.

There will be European and world legislation changes unless we do something about it.

The other area where there will be change is obesity. There will be legislation, and even if there is not, there will be a strong move. I noticed it in America recently, where they have a far more serious obesity problem than we have in Europe, although we have a major problem here. One of the challenges against obesity is the dairy industry. It can do a lot about it but will have to work very hard to ensure the products it produces are not going to be challenges to the consumers of the future.

Senator David Norris: I am most grateful to my colleague, Senator Quinn, and I am very pleased he led off the Independent Senators because he has very clear and successful experi-

ence in retail. We must listen with attention and respect to what he has to say, although I do not fully agree with him. I am not a great fan of the free market and I do not trust Tesco. I do not believe Tesco has the interests of the Irish nation as one of its primary motivating factors at all and it needs to be watched very carefully. "The customer is king" is a good mantra and has worked very well for Senator Quinn, but the customer has no chance against groups such as Tesco and we must watch that very carefully.

In a situation where farmers get 20 cent for a litre of milk while in the supermarkets it costs €1.70, who is making the money? Where is it going? The public is entitled to know. I would like to know, because it sure as hell is not the farmers. People may be surprised I speak with some passion about the agriculture sector but my grandfather was a farmer in Laois and I know how difficult it was, even for people with fairly substantial farms. I feel great sympathy because this is one of the most important elements in our society. I say so for a number of reasons.

First, the economic impact is very much underestimated. People talk about the pharmaceutical industry. I listened with great interest today to the president of the IFA, a good Laois man I am very glad to say, Mr. Padraig Walshe. In a debate with Professor Alan Matthews of Trinity College, he made the point very effectively that the value added element in agricultural produce, particularly dairy, is a multiple of that of the financial services or pharmaceutical industries. It is much more significant than might appear from the stark figures alone. We must bear that in mind.

More importantly, let us think about food security in every aspect. We are a small island. This is an appalling economic situation. One of my colleagues, Senator Ross, talked about Armageddon in the financial markets and our economy. Yesterday I spoke at a conference at which Professor Dermot McAleese of Trinity College's economics department said he does not know where this is going or where it will end. One thing we always had was food, our capacity to feed ourselves as well as exporting. We would be very foolish to interfere with that in any way and to go the way of many European countries by importing food from hither and yon because it is cheaper. We should not bring in meat from Brazil, where we cannot test the pedigree, as we can with Irish produce. We should be aggressively marketing it to get over the dreadful mistakes that were made in the brand image over the years with beef.

If I have the figures correct, farm incomes in this country last year were €2.3 billion, of which only €300 million was generated by agricultural work by the farmers. The other €2 billion was grants from Europe. That is very interesting and tells something about our dependence on these grants. Unusually I am happy to support that. There has been a drop of 25% in farm incomes. That is astonishing. How do people live with this drop? Many farms are supported by families part of whose income is derived from work outside the farm. The farmer may work for a few hours every day on the farm, morning and evening, and then go out and work in the building sector. The building sector has contracted so they can no longer do that. What are they to do?

The prediction is that there will be 20,000 farmers left in approximately 20 years. That is an enormous drop and the majority of those will be big farmers with ranches. I do not particularly want to see that. I saw that happen in Rutland, the part of England to which my uncle, who is Irish, retired. It destroyed the countryside and habitat and led to a reduction in food quality. That is a significant factor.

I was astonished to hear Professor Alan Matthews, a man for whom I have the highest regard, talk about the necessity to take in cheaper foodstuffs. Taking in such products led to Creutzfeldt-Jakob, or mad cow, disease. He also talked about the possible necessity of taking in feed that contains genetically modified products. I ask the Minister not to do that. Laying aside the troubling scientific evidence, we have the situation where we have the possibility of

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marketing excellent brands as one of the very few countries in Europe, if not the only one, that has no taint of GM. To return to my colleague, Senator Quinn, that is what customers want, marketed properly. They will take the opportunity to buy such food and pay the additional price.

What a pity that in the middle of this very difficult situation, once again the two sides of this House appear to be playing politics. I saw no contentious wording in the Fine Gael motion, with the exception of the word “real” which might be irritating, but the Government should be able to get over irritation.

Senator Eugene Regan: We can delete that word.

Senator David Norris: Fine Gael has offered to delete it. Let us have a composite motion. I do not believe Senator Cassidy presented this. It was the Minister, so he can allow us to have a composite motion and all of us to get behind the dairy industry. Let us not have a vote. I do not want to vote on either side. I would like to vote for the dairy industry in this country.

Minister for Agriculture, Fisheries and Food (Deputy Brendan Smith): I wish to deal with a few important points made by earlier speakers. Senator Bradford referred to the possible need to restructure the industry. In recent years the Department had the dairy investment fund, which allowed us to provide new facilities and to upgrade existing facilities and there was better cohesion and synergy. Senator Bradford rightly spoke about the need for rationalisation and that it is not always easy to achieve rationalisation and reorganisation. I agree with him in that regard. There is a need for further restructuring of the industry. However, that needs to come about through partnership and must be led by the industry. One of the major players in the industry recently spoke about the need for further rationalisation and sharing of facilities, and better synergy.

Senators Carty and Coffey also mentioned the difficulty of farmers getting adequate credit supply. I have raised this issue with all the senior agricultural advisers in each of the banks recently. I asked the banking and financial institutions to deal sympathetically and in an understanding manner particularly with dairy farmers. Senators Quinn and Norris spoke about the need for sustainability in the industry. There will be sustainability because we have got an increase in quota. We have the capacity to produce additional milk and dairy products. We are going through very difficult times at present, but the medium to long-term outlook is much more positive.

Senator Quinn mentioned that the world’s population will grow considerably. It is estimated by the Food and Agriculture Organization of the United Nations that we will need to double food production by 2050, which will provide Ireland with great opportunities to export more product. Currently we are 900% self-sufficient in beef and we export in excess of 80% of the dairy products we produce. I take the point made by Senators Quinn and Norris about the need to protect the food production base in Europe. We need to deal with our environment and climate change. We cannot allow food production to be restricted in a country where we have a very efficient system. New Zealand and Ireland have the two most efficient food production systems in the world. By definition that means we have fewer greenhouse gas emissions in the production of food than do other countries. At the Council of Ministers I have clearly and consistently stated that under no circumstances should the food production base in Europe be eroded, restricted or reduced. If that were to happen we would end up as a big importer of food into the European Union. We would be taking that food from other continents that are far away where the production systems are considerably less efficient and there would be deforestation to produce more grassland that would do further damage to the environment.

We would then be hawking food around the world, which would not be in the best interests of consumers or in the interest of our desire to protect and enhance the environment.

Senator Quinn spoke about the progressive nature of the dairy industry. We have a very progressive dairy sector. We are very fortunate to have a world-renowned research centre at Moorepark in north County Cork. It is regarded throughout the world as the leading research centre in dairy science and at the cutting edge of technology. It is important to have those resources to assist and work with our industry. Thankfully the industry is working together with our universities and research institutions on a partnership basis. We all know it is no good doing research if it does not translate into jobs and wealth creation for the benefit of our country and the industry.

I welcome this opportunity to debate the current state of the dairy sector and each of the contributions made in the debate have addressed the serious issues facing dairy farmers at present. Last November when it became apparent that dairy commodity prices internationally were in decline I contacted the EU Commissioner for Agriculture and Rural Development, Mariann Fischer Boel, to press for the reactivation of dairy market supports. These had been suspended since 2006 because of the historically high milk prices that had prevailed in the intervening period.

The first step taken by the Commission following my intervention was to introduce an aid scheme for the private storage of butter a full two months ahead of the normal date. This meant that butter market support was available in January instead of March and this scheme remains in place. It has already supported the storage of 96,000 tonnes of butter at EU level. Also in January export refunds were re-introduced for butter, cheese, skimmed milk powder and whole milk powder. In March public intervention for butter and skimmed milk powder was opened. When the mandatory limits of 30,000 tonnes and 109,000 tonnes respectively were purchased at the intervention price, I arranged a bilateral meeting in Brussels with the Commissioner. At that meeting I secured agreement for the continuation of these schemes under tendering arrangements at close to intervention prices.

To date 81,000 tonnes of butter have been bought into intervention, equal to 8% of the butter production in January to June. In addition 96,500 tonnes of butter have been stored under the private storage aid scheme. Some 203,000 tonnes of skimmed milk powder have been purchased into stock, equal to more than 38% of the skimmed milk powder production in January to June this year. Some 20,000 tonnes of butter from Ireland and 27,000 tonnes of skimmed milk powder have been funded under these schemes at an approximate value of €60 million to Irish dairy processors. So far this year licenses to export 96,000 tonnes of butter and butter oil, and 123,000 tonnes of skimmed milk powder have been issued which will enable these quantities to avail of export refunds for export outside the Community. Similarly, licences were issued in respect of cheese exports for 129,000 tonnes. The support value of this trade amounts to a further €113 million when these products are exported. Taken together there has been a considerable commitment of EU funds to support the dairy sector.

The purpose of activating these measures is to get product off the market to give a necessary stimulus to the product that is on the open market. However, with the market continuing to show resistance, price returns to dairy farmers in Ireland are now at levels that threaten the very viability of many farm enterprises. While this would be unwelcome at any time, in this recession there is the risk of long-term damage to the food supply chain. I have explained in detail to the Commission why it is difficult for many to understand that in this current severe market downturn we have a self-imposed technical impediment preventing the use of export refunds in support of cheese exports outside of the Community in the quantities demanded by the market. This does not make sense in the current environment and I have once again urged

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the Commissioner to remove the free at frontier price for cheeses at the earliest opportunity. If we were to succeed in getting this measure changed, it would be particularly important in the export of cheddar cheeses, of which Ireland produces a considerable amount.

I have also stressed the need to examine other steps that may assist in reversing the downturn and stimulating the market further. For example, intervention purchases of butter and skimmed milk powder will close at the end of August and the private storage scheme for butter shortly beforehand. The role of private storage in particular and also intervention is such that their continuation after the normal end dates will be crucial in preventing further market turbulence at a time when supplies would otherwise hit commercial markets. While I understand legal impediments remain to be overcome, the view I have articulated at meetings of the Council of Ministers is that the market situation warrants an exceptional response on this occasion. As recently as Monday night in Luxembourg I again spoke to the Commissioner about the need to implement this measure.

The dairy sector downturn has its roots in the supply response that resulted from high prices in 2007 and in the early part of 2008. That situation was then exacerbated by the international financial crisis. This has had a major effect on the demand side. Difficulties with access to credit have exacerbated what was a cyclical downturn into a major reduction in international demand for dairy products. The market is carrying surplus stocks as a result. Farmers across the European Community and farmers in Ireland in particular are facing very severe difficulties in making ends meet as has been articulated by the previous speakers. Prices are historically low and while the Commission has made every effort to stabilise the situation, there is no real sign that a recovery is in sight.

Over the past year or so we have witnessed extremes of volatility in dairy product prices on an unprecedented scale. This volatility is a symptom of the changed EU policy framework under which we are operating, where world market forces have a major influence on the price paid for milk. The mid-term review of the Common Agricultural Policy in 2003 implemented a series of reforms that resulted in a shift from market support to direct income support. Though these changes were expected to lead to a reduction in the prevailing milk price the opposite occurred and by 2007 we had the international commodities boom that saw prices reach as high as 40 cent per litre and average at 34 cent per litre for the year.

For a dairy producing country like Ireland, where we export the vast majority of our product, this new framework is particularly relevant. Ultimately the market is the source of income and to maximise income the focus needs to be on competitiveness, efficiency and innovation. One of the major challenges in the medium term will be to ensure Irish farming and the agrifood sector are at the heart of an evolving high-value food market, which is focussed on quality and innovation. This is at the core of Government strategy, as is evident from the National Development Plan 2007-13, AgriVision 2015 and the partnership agreement Towards 2016.

The AgriVision 2015 plan in particular sets out a series of actions, many of which have been implemented, to develop a competitive, innovative and consumer focussed agrifood sector. As part of this overall strategy, the Department provided funding of €115 million towards investment in dairy processing. A total of 19 capital investment projects were approved and awarded Government grant assistance under the fund, which will generate an estimated capital spend of €286 million at full production. Senator Paul Bradford referred to this issue earlier.

The fund's purpose is to increase the efficiency of main dairy outputs by supporting the upgrading of plant and buildings. This will assist operators in capturing new business in global markets and in developing new value-added products. By stimulating necessary investment in

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the sector, the fund will help to ensure the long-term competitiveness of the dairy industry in Ireland.

Many of these projects have already been completed, while others are close to commissioning stage and the remainder will be progressed over the next year or so. Together, these investments will add to the value of dairy sector output and in turn stimulate new trade opportunities and increase overall output in line with increased farm level output resulting from the easing of supply controls agreed as part of last year's health check.

From a dairy sector perspective, the health check of the CAP agreement last November had two key elements, namely supply control and market support. The agreement essentially provided the framework for the EU milk quota regime leading up to its abolition in 2015. As Senators may be aware, there was a wide divergence of views among member states in the months leading up to the final negotiations as to the best course of action on milk quotas. Commissioner Fischer Boel made it clear that she would not be proposing the continuation of the quota regime beyond 2015. The question was whether, and to what extent, milk quotas should be increased in order to provide a so-called soft landing ahead of abolition.

Many of our colleagues argued in favour of annual quota increases up to 5%, while others were opposed to any increase. I adopted an ambitious approach that would facilitate the maximum possible fulfilment of the production potential in the Irish dairy herd. In that context, the decision to increase quotas by 1% each year from 2009 to 2014 was a good outcome. So also was the downward adjustment in the butterfat co-efficient that equates to a further 2% rise in quotas this year.

When the 2% quota increase in 2008 is taken into account, the result is a cumulative increase of 9.3% in Ireland's milk quota by 2014 compared with 2007. This will help our dairy farmers to maximise their production potential and to maximise the natural advantage they possess in the form of a grass-based production system. This in turn will lead to efficiency gains and help to achieve a competitive edge in an increasingly volatile world market. If on the other hand EU production is constrained by quotas, it will prevent Ireland from benefiting from future upturns in dairy markets. In that scenario the only winners would be our global competitors. I referred earlier to the UN Food and Agriculture Organisation's projections in regard to the demand for food up to 2015 when the world will need to double its food production.

I recently announced the allocation key for the first of the five annual 1% milk quota increases agreed under the health check. Three quarters of the increase will be allocated to all active milk producers on a permanent, saleable basis. The remaining one quarter will be allocated to new entrants to dairying on a scale designed to achieve viability from the outset. That has been warmly welcomed by young farmers and their representative organisation.

It has been suggested that the EU quota increases to all member states are the cause of current low prices for milk, but this is a flawed argument. In its report to the Council last Monday, the European Commission said that milk production in the quota year 2008-09 has fallen by 0.6% compared with the previous year and that overall production was 4.2% below quota by 31 March 2009. To attempt to attribute the current market weakness to the additional quota allocated as part of the health check is patently wrong — it is a demand-led problem. The serious problems facing the dairying industry today are linked to the lack of disposable income for consumers worldwide.

At national level the focus in the milk quota area is on ensuring the maximum possible volumes of quota are made available to active and committed dairy farmers. This will facilitate the efficiency gains that are necessary in an increasingly competitive market. Domestically, work continues on making the quota regime as simple, flexible and responsive as possible for

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Irish milk producers. The main vehicle for this is the milk quota trading scheme, but there have also been other significant steps in the form of an overhaul of the milk quota regulations.

The milk quota trading scheme has just completed its third year of operation and continues to be implemented successfully. The trading scheme replaced the old milk quota restructuring scheme and brings a more open-market approach to the transfer of milk quotas. It gives buyers and sellers freedom to dictate the price at which quota is traded within each co-op collection area. A total of 375 million litres of quota has been transferred to active producers since the scheme's inception and it has continued to contribute to the process of consolidation at producer level.

The other key dairy element in the health check was market support. In the negotiations we strongly defended the view that quota increases must be matched with effective dairy market management measures. The transition to a post-quota EU dairy market, along with current market fluctuations, makes this particularly important. We therefore called for the continuation of such measures and, above all, those schemes which are especially important for Ireland. In the early part of those negotiations we were on our own in defending the necessity to retain those market management measures, namely, intervention, aids to private storage and export refunds. I shudder to think what situation we would be in today if those market management measures were not now available to the European Commission to trigger and activate. During those negotiations last year, however, we fought a lone battle practically right to the end and then we got some support from other member states.

Allied with the liberalisation of quotas, we insisted in the negotiations that critical market supports for the type of dairy products manufactured here in Ireland would remain in place. They must continue to function in support of the market to sooth volatility and assist the industry in meeting its competitive challenges. In the event we managed to maintain the butter and skimmed milk powder intervention schemes intact despite powerful forces opposing the retention of these schemes. A determined effort was made to introduce tendering for every tonne of butter and SMP intervened. This would have been particularly difficult for Ireland. The importance of these measures cannot be overstated as they play a crucial role in levelling the market supply and demand dynamics. They have a vital role in Ireland given our seasonal pattern of production. This is also true for private storage aid for butter where existing arrangements were maintained, although once again there was strong opposition intent on introducing tendering arrangements.

Our foresight in fighting to maintain these market supports has been vindicated and they are now being used to deal with the current situation, as I outlined. I would like to see those measures used more effectively, which is what we have been urging the Commission to do. It is important to utilise the available supports to manage the transition period until we emerge from the current period of turbulence. We can expect to see some supply side adjustments as producers respond to market signals. Realignment of consumption and production across international markets will help restore equilibrium to the markets once more.

It is important to emphasise that medium-term prospects for global dairy markets are good. Despite the current economic turbulence, growth in wealth and population is forecast to stimulate strong levels of demand for dairy products and returns will improve commensurately. The Government is committed to ensuring the Irish dairy sector reaches its full potential. We will continue to maintain close contact with the EU Commission to ensure support measures are activated at levels that will make a real impact in the market. This will enable us to manage the transition period until demand recovers and good prospects forecast for dairy markets can be fully realised. That support is needed by our dairy industry, from farmers, who are the primary producers, to processors.

In Ireland and other member states the issue of retail margins on food products has become a point of heated debate in recent times. I raised this issue on a number of occasions at the Council of Ministers, most recently last Monday. Last January, there was a discussion on a road map to improve the functioning of the food supply chain. I said then that competition alone cannot act as a sole mechanism to maintain efficient markets. The careful and sensitive use of market management measures can help to maintain balance on the market when appropriate and the use of such mechanisms can assist in the provision of fair returns to producers.

Underlying the debate is the increasing concentration of retail power in the hands of a few large supermarket chains. This is an international phenomenon, which has fundamentally changed the balance of market negotiating power in the food chain. This is one factor, although not the only one, behind the declining share of retail prices which is passed back to producers. While there is always potential for some conflict in any market relationship, there has been a noticeable trend recently towards greater conflict and even allegations of sharp practice. We cannot and should not ignore this. Many of my colleagues on the Council of Ministers also expressed strong views on this matter, and we will keep it on the Council's agenda.

Consolidation at processor level is also necessary to ensure maximum efficiency and to balance the market power of the large retail multiples. Competition policy must be sensitive to this. These difficulties are heightened by the fact that there are many gaps in our information about the market. Information, like negotiating power, is not evenly distributed among the players in the market. This is an area where we can look at ways of ensuring greater transparency and a more open flow of cost and price information from and to all participants in the food marketing chain. At EU level there is a need to give urgent thought to this and to how we might be more active in ensuring markets function well and unfair practices are prevented.

We can all agree on the paramount importance of the European agrifood industry, both in Ireland and across Europe. The European Union must safeguard its production base so that it can meet the future demand of its population for food, feed and bio-energy. While fully recognising that retailers must strike a reasonable balance between granting price reductions to consumers and giving suppliers and producers a fair return, this should not be done at the expense of a viable European agrifood sector. This generation cannot allow the food production base in Europe to be damaged irretrievably so that we end up in future with a huge shortage in the supply of milk and dependent on the importation of milk powder from another continent.

At EU level, all the main support mechanisms have now been activated and we have managed to use these to the maximum possible extent. We have identified areas where there is a need to continue to expand the scope by which these measures can continue to support the market. I will continue to press the Commission to suspend the free-at-frontier price for cheese and to extend the closing date for public and private intervention. If agreed by our colleagues in Europe, these measures will add further value to the measures we have already taken to stabilise the market.

There is a huge political commitment to advance these issues and at the European Council last week, Irish concerns were raised by the Taoiseach. Chancellor Angela Merkel and the Taoiseach both spoke about the particular difficulties facing the dairy industry in their respective countries and throughout Europe. It was important the issue was raised at that meeting owing to the importance of the industry to so many people in all our rural and some of our urban communities. At the meeting of the Council of Agriculture and Fisheries Ministers last Monday, I raised these concerns for the fourth consecutive meeting. The Government is committed to supporting the dairy sector and has not been found wanting in the past with policy initiatives and financial investment. I have every confidence the sector will recover from this

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current downturn and achieve its fair share of the annual growth in demand for dairy products that is predicted by the OECD and other forecasting institutions.

I am glad to have had the opportunity to contribute to this debate. It is of great importance to our farming sector. At the request of Senators Carty, Coffey and Bradford, I will raise again with the banks the need to ensure an adequate supply of credit is continued to our farmers. The Department and I maintain ongoing contact with the chief agricultural advisers to our main financial institutions. I spoke to representatives of the two main financial institutions very recently and again highlighted to them the difficulties facing the sector at the moment and the need for the banks to be as reasonable as possible in working with the industry through these difficulties. As has been said by all the other speakers, we are in a difficult situation but there will be good days ahead. We have a very vibrant, innovative, active dairy sector in our country. Our processors are doing their research, aided and supported by the State through Moorepark, our institutes of technology and the likes of UCC and UCD. We all know the value of the dairy science department in UCC over many years. There has been a huge investment in research and development over recent years, which has been of great importance to the industry.

Senator Eugene Regan: While I thank the Minister for that exposé on the dairy sector, it is disappointing he did not address the motion before the House. He spoke about many issues concerning the dairy sector. We all recognise its importance and the serious situation it is in. What part of the Fine Gael motion does the Minister disagree with? It calls on the Government to deliver a comprehensive framework in consultation with the industry to bring about the restructuring necessary to deliver long-term viability to the sector. I presume the Minister is not in a position to provide such a framework for the industry. The motion also calls for the introduction of export credit insurance measures in line with other EU member states and seeks co-operation from financial institutions. The Minister has indicated this is taking place, yet the motion is being opposed. It also calls for action to bring down input costs for producers. Has the Minister a problem with this proposal? Finally, it calls on the Government to negotiate more aggressive market support measures at EU level to deliver a price above the cost of production for Irish dairy farmers. I have to assume the Minister opposes these measures or is incapable of acting on the recommendations in the motion put forward by Senator Bradford and the Senators on this side of the House.

The Minister stated that the Government would continue to maintain close contact with the European Commission. That is not very profound and does not convince me we will get results. He claimed he raised this issue on a number of occasions at meetings of the Council of Ministers. There is also a condemnation of certain practices in the retail sector. The problem is that words are no good to the dairy sector. Action and real measures will lift the sector out of its current situation. We do not have a structural problem in the sector but a conjunctural problem that arises from the high price of dairy products in 2007 and the resultant increase in production. The resultant cyclical effect has caused a downturn in demand and a price which is now half the level of 40 cent per litre in 2007 and below the cost of production. The long-term sustainability of the industry is at stake. Since it is a cyclical or conjunctural problem, there is an onus on the Government and on the European Union to resolve it and assist the sector.

We recognise that the problem in the dairy industry is part of the broader economic trouble worldwide. The issues of credit, demand and food scares in China have all played into the collapse in demand. There is an onus on the EU and the Government to ensure the Common Agricultural Policy plays the role it is supposed to do, which is to even out the extreme volatility in prices. It is in the nature of agricultural markets to be cyclical, and counteracting this is the

exact purpose of the CAP. The deregulation of the sector, in which the Government has acquiesced, is one of the roots of the existing problem. It is not providing the appropriate mechanisms to ease the extreme fluctuations in price. That is the position in which we find ourselves and is the cause of the problems dairy farmers and the general dairy sector face.

The chairman of the Irish Dairy Board, Mr. Michael Cronin, clearly pointed out the long-term damage that will be done to the sector if the necessary supports are not provided. Intervention for skimmed milk powder and butter, the private storage aid scheme and the reintroduction of export refunds has played a role in stabilising the market to some extent. However, it has not done what it was supposed to do — putting an effective floor on prices above the cost of production.

There is a danger if we do not have effective measures at EU level. Member states will provide aid to their own dairy sectors at the level of farming and dairy processing. There is a fear of the re-nationalisation of the CAP in the dairy sector. This was pointed out by the president of the ICMSA who expressed concern about this issue. A recurring theme when there are problems in the agricultural sector is that countries that can afford to subsidise their agricultural sectors will do so. We in Ireland, however, will be unable to do so and, ultimately, will lose competitive advantage. This is one reason the Government must be more effective in securing measures at EU level to assist the markets.

The Minister has mentioned that supermarkets in the retail sector are not playing their part. The reality is that prices to producers have dropped dramatically but prices at the retail level have not dropped dramatically. The margins are extreme. It is not a question of a code of practice; it is a question of applying the rules of competition and the abuse of market power. There is a disjunction between competition policy as traditionally applied and the fact that each of the supermarkets in this country has less than what is regarded as a dominant position. This creates a problem but, nevertheless, supermarkets at retail level have a disproportionate effect on the return to farmers and are taking a disproportionate margin compared with what is returned to the dairy farmer. The Council of Ministers has asked for a study on the functioning of the food chain.. This is an issue that must be addressed more effectively by the Government.

The IFA has set out its case very clearly, as have the Irish Dairy Board and the ICMSA. There is a consensus that we have a major problem in the dairy sector. To suggest that everything that can be done is being done is not good enough. We need effective action from the Government and we need results.

Senator Dan Boyle: All Members in the Chamber agree that producers receiving prices that are below the cost of production is unacceptable. Measures must be found to counteract that and ameliorate the situation. The motion places too much emphasis and onus on the Government through the mechanism of the Common Agricultural Policy in particular. The Minister has highlighted the measures taken to improve the situation and those he intends to take. We must examine all the structural factors to achieve the long-term sustainability of the dairy sector and milk production in this country. This must examine the medium-term and long-term situation. We have had considerable changes and reform in the Common Agricultural Policy already and those changes will become more marked in the future. The structural changes required refer to the lack of competition that has moved into both ends of the market in terms of the processing and retail of dairy products.

Growing up in Cork city, there was a strong duopoly in competition, with Cork Milk Producers and Ballinahina Dairies. Cork Milk Producers was subsumed by Mitchelstown and its dairy was closed. Ballinahina Dairies was taken over by the Kerry Group and its dairy has been reduced to depot status. In the meantime, door-to-door deliveries have become a thing

[Senator Dan Boyle.]

of the past. Smaller dairies are unable to deliver to small corner shops and most people's access to milk supplies is through the multiple stores which are operating a cartel.

Other speakers, including Senator Quinn, referred to sustainability. The supermarket multiple nearest to my house in Cork city is a German chain and the milk on sale there comes from Monaghan. Senator O'Brien might be happy about this but it is not sustainable that the local milk production is not supported to such a degree. The consumers lose out because of the additional environmental, social and economic costs that accrue. Other supermarket chains source milk in Northern Ireland, taking account of the sterling differential, which is another uncompetitive aspect adding to the difficulties of milk producers.

We must get back to multiple points of sale for milk products and having those points as locally sourced as possible. In an open, competitive environment, that is easier to do than it sounds and the more we can do this the better. We must diversify for long-term sustainability in dairy production. The milk element will always be the largest element of it but we can produce other dairy products such as cheeses and yogurts and we can use whey in biodiesel, as happens at Carbery Milk Products, Ballineen, as Senator McCarthy knows. The more we use the milk that is produced to get the maximum value out of the quota, with the maximum panoply of goods and services, the better it will be for local milk producers. We need a policy that will put that in place.

The farmers' market is an obvious point at which to do this and the work done by my colleague, the Minister of State at the Department of Agriculture, Fisheries and Food, Deputy Trevor Sargent, has increased their existence and popularity. This will help to some extent with the by-products. It will have little effect on milk sales because that requires pasteurisation and other processing models. We must encourage more points of sale and more direct access by the consumer to the product where it is closest to the producer. The distance in terms of competitive aspects and the processing of dairy products and its sale has the biggest impact. We can concentrate on what the Government is doing and not doing and on the Common Agricultural Policy but if we are not dealing with the commercial realities of what is being produced and how it is sold, we are ignoring the bigger picture. This does not help the lot of the producers.

There are other structural problems. A friend of mine is a milk producer in Fermoy. He tried to get the maximum value from his milk quota by producing farmyard cheeses. There are obvious difficulties in how we deal with health regulations and the production of cheese compared with how this is dealt with in other European countries. We place additional constraints. Agricultural facilities, such as farmyards, are exempt from rates. If someone starts a farmyard enterprise based on dairy products to create value added through the production and sale of cheese, this is subject to rates from the local council. In terms of starting a business and getting it off the ground——

Senator Fidelma Healy Eames: The Minister for the Environment, Heritage and Local Government is in Deputy Boyle's party.

Senator Dan Boyle: I have mentioned the point to him. It is the decision of the Department of Finance.

Senator Fidelma Healy Eames: Senator Boyle's party is at the Cabinet table and should do something about this.

Senator Rónán Mullen: The Green Party is in a good position to lobby.

Senator Dan Boyle: Collectively, it is a point we should raise, especially in a time of economic downturn, when we should encourage small, locally based industries. These constraints are unnecessary, unhelpful and have the opposite effect that they should have.

Senator Rónán Mullen: Senator Boyle may not have bragging rights but he has nagging rights.

Senator Dan Boyle: I am greatly encouraged by the support of the Senators this evening.

Senator Fidelma Healy Eames: Genuinely, Senator Boyle should do something about it.

Senator Dan Boyle: Should I feel the need to contact them during upcoming negotiations, I will do so.

Senator Nicky McFadden: We look forward to it.

Senator Dan Boyle: The point I am trying to get across concerns the essence of the motion. I can understand that it is a response to the current difficult position of many milk producers but it is very narrow in what it states. It argues that the difficulty is with the Government and the Common Agricultural Policy but it is far more than that. There are deep structural commercial policy issues and there are other constraints in how we encourage people——

Senator Fidelma Healy Eames: What about the Government amendment? It is narrow in its approach.

An Leas-Chathaoirleach: Senator Boyle, without interruption.

Senator Dan Boyle: I am just pointing out how the motion is narrow.

Senator John Paul Phelan: Did the Senator even read our motion?

Senator Fidelma Healy Eames: The Government is narrow in its amendment.

An Leas-Chathaoirleach: Senator Boyle to conclude.

Senator Michael McCarthy: Put as much pressure on him as possible.

Senator Dan Boyle: I welcome this important debate. It addresses the concern which exists but it also needs to consider the wider picture. Having this debate will help to open many of those avenues. I am a member of the minority party in the Government with a particular view on sustainability and food production, and the focus in both the Government amendment and the original proposal is too narrow. They do not consider the longer-term view or look at sustainability in its wider aspects.

Senator Fidelma Healy Eames: The Senator can form his own Government. His party clearly did not inform the Government amendment.

An Leas-Chathaoirleach: I ask the Senator to conclude.

Senator Nicky McFadden: Will the Senator vote for either the amendment or the original motion?

Senator Dan Boyle: I would like to conclude by using my own words. As this debate progresses, I hope that more of us participating in the political process will take the opportunity to look at the wider picture. The dairy industry, milk production and rural Ireland needs us to do so.

Senator Michael McCarthy: I wish to share time with Senator Rónán Mullen.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Michael McCarthy: I welcome this debate and I welcome the Minister of State, Deputy Killeen, to the House. We are all well aware of this matter and the crisis in the dairy sector has rightly commanded headlines not just in the national media but in the international media in recent days, not least because of the protest in Luxembourg last week.

In listening to the protestors and members of our own delegation from the IFA speaking about the hard-pressed dairy industry and the financial restrictions and challenges faced by farmers, we all too often forget that farmers are subject to income levies and farming took a particular hit in last October's budget. We saw then the abolition of the installation aid and early retirement schemes. I evidenced one example in this House where one household on the night of the budget on 15 October 2008 lost €30,000 as the head of the household had died and the estate had not been sorted out legally. Applications for both schemes had been submitted but they fell dead that night to add to the distress of the household and create an additional financial burden. All too often we forget that.

The accounts given by those at the protest indicated they were struggling to meet household bills and educational costs for children. We can consider attempts made by the Minister for Education and Science to reintroduce fees in some format and this is a significant worry for people in this industry. They are subject to this fear in addition to the challenges facing their sector.

The Minister, Deputy Brendan Smith, spoke about asking the banks to be cognisant of this and give latitude to people. It is appropriate that the Minister of State, Deputy Killeen, is present when I make this point. There are people in the fishing industry in west Cork who are on interest-only loans for boats, which reflects the type of pressure people are under. Farmers are also under this pressure. Asking a bank to be merciful is a bit like saying that we should go to Knock and pray for better conditions for dairy farmers. Leaving something to a bank's discretion, according to evidence, will not deliver the goods for those who are poor or in significant financial difficulty.

I wish Mr. Padraig Walshe well in his presidency of the European farmers' union, Copa. He stated that the European Commission bailed out the banks and the automobile association and that it is now time it bailed out dairy farmers. The Government must indicate to the banks that there should be an element of *quid pro quo*. The compliant taxpayer has recapitalised banks and bailed them out and it is not that much to ask that banks look sympathetically at individual cases involving farming or fishing families or where there is difficulty with financial debt in household budgets so that there should be some form of *quid pro quo*.

Senator John Paul Phelan: Hear, hear.

Senator Michael McCarthy: It is the least we would expect from banks in the current climate. We should not forget that farmers are also subject to income levies. I raised the matter of fuel costs on the Order of Business today. The average price for a litre of petrol is now €1.20 and for diesel it is approximately €1.08 or €1.09. There was a significant jump in the averages in May, and the tax and duty take by the State is 72 cent for petrol and 60 cent for diesel. That is a significant mark-up. The Government can initiate revenue-neutral schemes to give people a break and protect farmers subject to such costs. There has been a significant increase in fuel costs with the VAT take being increased to 21.5%.

When the mid-term review and health check were agreed, dairy markets were stabilised at intervention level but that is far below what was envisaged. Circumstances have changed

dramatically and I have a few direct questions for the Minister on the talks at the European Commission. What progress has he made to date? I suggest that we gain more support in response to the current crisis.

Many good points have been made in this debate on all sides of this House and it is most important we extract a deal that can bail out the dairy industry. We should consider aggressive alternative measures to achieve that. If it can be done with the automobile association and the banks, we can surely do it for dairy farming.

Senator Rónán Mullen: Gabhaim buíochas leis an Seanadóir Mac Cárthaigh. Cuirim fáilte roimh an Aire Stáit. Dúirt Samuel Johnson ní hamháin go mbronann talmhaíocht saibhreas ar thíir, ach gurb í an talmhaíocht an t-aon saibhreas amháin gur leis an tír í, chun an fhírinne a rá. Bíonn daoine ag gearán agus ag déanamh neamh-aird ar thábhacht na talmhaíochta d'eacnamaíocht na tíre seo. Níl aon saineolaí eacnamaíoch talmhaíochta ag an ESRI faoi láthair, mar shampla. Nuair a bhreathnaíonn tú air, is é tionscal an bhia an t-aon tionscal ceart atá faoi smacht ag Éireannaigh agus ar a bhfuil gnóthaí móra idirnáisiúnta, ar nós Kerry Food Ingredients agus Glanbia, bunaithe.

Agriculture continues to be of major importance to Irish life and I noted Samuel Johnson's comment that agriculture not only gives riches to a nation but the only riches she can call her own. Although people discount the economic contribution of agriculture, and the ESRI does not have an agricultural economist on its payroll, agriculture and food are vital to our national economy. The food industry is one of the few significant industries in Ireland which is largely controlled by Irish firms and one of the few sectors where we have large multinational enterprises such as Kerry Foods and Glanbia.

The statistics remain impressive and this morning's debate involving the president of the IFA was most illuminating. Although there have been attempts to downplay the economic contribution of agriculture, where one considers that for every job in food manufacturing there are four related jobs in the wider economy, this speaks for itself. Ultimately, the strength of the food sector depends on the survival of Irish family farms, without which we would have no food industry. We can be certain that there will be fewer dairy farmers in business at the end of this year than at the beginning because they have been forced out by costs, prices and, to some degree, Government indifference.

The great American liberal, Jim Hightower, once stated that it was still possible to make a small fortune in farming but the trouble was that one needed to start out with a large fortune. This is a sentiment many dairy farmers would agree with, as this year milk prices have plunged to 1983 levels while supermarket prices remain at the 2009 level. According to the IFA, farmers are now selling milk at between 4 cent and 7 cent less than the cost of production. There is an onus on everyone to respond to this crisis at Government, EU and co-operative level. We need a floor price for milk at EU level and we should tackle the cost of doing business in this country. It is 25% more expensive to run a business in Dublin than Belfast and we need the industry to step up to the market co-operative level and pay a decent price to farmers.

The current collapse in milk prices is not the only issue. The decision by Tesco to begin to source grocery goods directly from the UK and to slash the space allocated to Irish brands on its shelves in Ireland will have a potentially disastrous impact on the Irish food sector. We need to debate that very soon. There should be a fair deal for hard-pressed Irish consumers but not if the price of it is to be permanent Irish job losses.

Senator Francis O'Brien: I wish to share my time with Senator Ellis. I welcome the Minister of State, Deputy Tony Killeen. It is great to see him in such form and fighting fit. We all wish him well. I welcome the opportunity to discuss this urgent issue affecting the agriculture sector.

[Senator Francis O'Brien.]

The Minister is working so hard for the dairy sector but these are difficult times with milk prices as low as 20 cent per litre.

I welcome the decision taken at last Friday's management committee in Brussels for the common organisation of agricultural markets. The committee decided to increase export refunds for butter, skimmed milk powder and whole milk powder and to accept into intervention all quantities of butter and most quantities of skimmed milk powder offered while maintaining the intervention purchase price.

The Minister said the milk market situation would be discussed at next Monday's Agriculture and Fisheries Council meeting and that he would press hard for the prolongation of the public and private storage schemes which are due to end in August. He also intends to press for the removal of anything that would block the export of cheese products outside the EU and for a more aggressive level of support for the export of butter products. The dairy industry is of huge benefit to the Irish economy with exports worth in excess of €2 billion.

Following the Minister's consistent intervention, the European Commission has, since the beginning of the year, restarted a range of support measures to help stabilise the dairy markets to support the export of dairy products outside the EU and has signalled its intention to put a floor under the market. This is truly an exceptional market situation and an appropriate response is warranted.

There is scope for further action and at this week's EU Agriculture and Fisheries Council, the Minister pressed the European Commission on a number of fronts. In addition, there is greater scope for exports of dairy products outside the EU and more attractive export refunds which would greatly improve the export potential of the EU and which would be of great benefit. The Taoiseach contributed to this important debate and the fact that it took place at all is an indication of the seriousness with which the issue of milk prices is now being taken right across the EU.

There is no doubt farm families are under serious financial strain. The key issue for the Irish dairy industry currently is to get the dairy markets back on track. This can best be achieved by enacting all the support mechanisms available under the Common Agriculture Policy. To that end, I welcome the steps taken by the Commission so far to stabilise the situation and I encourage it to continue its efforts to stabilise and stimulate the market even further. As was said, dairy farmers face a serious situation and are probably losing money producing milk. I am delighted to speak on this motion.

Senator John Ellis: We all welcome the opportunity to discuss this matter. It would be no harm if we had a debate on the entire agriculture industry before the House rises for the summer because the industry is facing chaos which is not all caused by farmers or the EU. In many cases, it is being caused by the people being supplied by the primary producers. The multiples are taking margins which are totally unacceptable from the producers' and the processors' point of view and they are squeezing the daylights out of them.

The other issue is inputs which are 15% to 20% higher in this country than in Europe. That cannot be sustained in the dairy or beef industries. Something must be done to see what action can be taken with the people taking the ridiculous margins at the expense of primary producers.

The dairy industry in this country has not moved with the times. It can say what it likes and while it has done a bit of extra processing and there has been a slight bit of added value, it is frightening to read the figures on the amount of money that has gone to butter and skimmed milk powder production. We are not moving with our competitors across the world. The Irish

dairy industry is asleep and it will have to accept that. If it is to be competitive, give producers a reasonable price and compete in the marketplace, it will have to up its game very quickly.

The major co-operatives of ten or 15 years ago are now plcs. The problem is that they will squeeze the primary producers to create margins to keep the Stock Exchange happy. The best paying groups as far as dairy farmers are concerned are the few co-operatives left. They pay better prices to primary producers than the large multiples because they are not squeezing them and are at least trying to give something back to them.

The Minister is doing everything in his power to get aid by fair or foul means in Europe. However, we are funding an industry, the processing and inputs end of which will have to be upgraded. This is a warning sign for agriculture as far as this country is concerned. If something is not done to enable us to become producers for the high-end market in every sector, we will not be able to compete in the long term and sustain our farmers. If we are going to be bulk commodity producers, we will not be able to compete against the New Zealanders or the other countries.

I saw on one of the international television stations the other day that a new unit for 40,000 cows is being set up in China. Imagine the production capability of that unit if it is run properly. We will have to move our dairy and agriculture industries into the higher end market and we will have to deal with the multiples about the margins they are taking at the expense of farmers.

Senator Joe O'Toole: I wish to share time with Senators McFadden, Burke and Healy Eames.

Acting Chairman (Senator Fiona O'Malley): Is that agreed? Agreed.

Senator Joe O'Toole: I disagree with Senator Ellis that the dairy industry is asleep. The industry and its farmers are being squeezed by the retail multiples and others. I found it hard to take IBEC's call this week that an ombudsman is needed to protect supermarkets and the multiple outlets when they are squeezing farmers.

I want to bring to the Minister of State's attention that Cadbury's Ireland announced it is cutting 200 jobs in its factories in Rathmore, County Kerry, and Coolock, Dublin. Deputy Tom Sheahan and I have been trying to get some information from the Tánaiste's office and elsewhere about the impact of these redundancies at local level.

Last year farmers received 39 cent per litre for milk but this year it is 20 cent per litre. The price for milk paid to farmers has dropped by 50% in the past two years, yet an industry that uses milk in its production is still cutting jobs. It is unacceptable that the recession is being exploited to cut jobs in places like Rathmore or Coolock. These cuts will go straight to the heart of the local economies. They are all just in the interests of higher profits while farmers and workers are screwed with local communities losing out.

Will there be an investigation into why Cadbury's Ireland must cut these jobs? I do not accept at a time when its most significant cost, milk, has dropped by 50% that it is acceptable for it to cut jobs. Politicians, the Government and the trade unions care about employment and unemployment. However, no one else cares. It is unacceptable industry tries to screw everybody else to increase its bottom line. I want some hope to be given to people in Rathmore and Coolock and for Cadbury's to explain why it is cutting jobs in these areas.

Senator Nicky McFadden: Farmers, in particular dairy farmers, are being screwed.

Acting Chairman: That is not very parliamentary language.

Senator Nicky McFadden: I apologise. The supplementary budget saw the suspension of the young farmers' installation grant, cuts to the suckler cow welfare scheme, the fallen animal

[Senator Nicky McFadden.]

scheme and others. Dairy farmers work very hard, milking twice with little chance for holidays. It is outrageous they are being offered 20 cent per litre for milk when it costs 27 cent per litre to produce. An office for fair trading should be established, absorbing the Competition Authority and the National Consumer Agency, to oversee a code of practice for supermarkets and going some way to alleviating the crisis in the dairy sector.

Senator Paddy Burke: I thank Senator O'Toole for sharing his time. It is difficult to know what one can say in one minute.

Senator John Ellis: Little or nothing.

Senator Paddy Burke: I agree with him that a full debate should be held on the future of the dairy industry in the House. I compliment the co-operative movement on the support it gives to the dairy industry and the price it pays for milk compared with that paid by the retailers.

I hope the Government will continue the intervention prices for butter beyond 31 August. Butter should be allowed to be used in commercial production of pastry and ice cream as it has never been cheaper. Skimmed milk powder should be allowed to be used in calf milk replacer. The aid to private butter storage regime should also be extended beyond 15 August. No farmer or small business can get leasing from the banks. The Government must address this to ensure credit flow for both farmers and small businesses.

Senator Fidelma Healy Eames: My family has been engaged in dairy farming for some time. The family-run farm is the EU model for farming. However, it cannot be sustained because of the volatility in world dairy markets. Expecting farmers to accept 20 cent a litre for milk when it costs them 27 cent a litre to produce it is unsustainable. Irish dairy farmers cannot compete with the New Zealand or US industries which are producing like factories.

The European Commission and EU agriculture Ministers must show the world market that the dairy industry is important at EU level to protect food supply. This week Irish farmers were disappointed the Minister for Agriculture, Fisheries and Food, Deputy Smith, did not seek supports for them at the EU Council meeting in the same way his French and German counterparts did, which is unusual. At an Irish level we need to negotiate more aggressive market support measures to protect our dairy industry. Will the Minister of State set up an ombudsman for the whole food industry? It is clear that at retail level the intimidation of producers and farmers is ridiculous. The multiple retailers have too much power.

Senator John Paul Phelan: I thank Senator Bradford for allowing me to sum up on this important debate and I thank all Senators for their contributions to it. I am involved in some relief milking at home myself, so if I were not here I would probably be in a milking parlour.

Senator John Ellis: It might be more productive there.

Senator John Paul Phelan: Instead, I am glad to be here for this serious debate on the future of the dairy industry.

Acting Chairman: Every cloud has its silver lining.

Senator John Paul Phelan: While this House and others often play lip service to rural development, the most effective key to development is to keep as many viable family farms in operation, as Senator Healy Eames pointed out. It is regrettable the Government is not fully supportive of family farming.

Senator Fidelma Healy Eames: Hear, hear.

Senator John Paul Phelan: The backbone of rural Ireland is the family farm. It affects every other aspect of rural community life whether it is the local shop, school or pub. Every social facility in a local rural community stems from the fact that people are employed on the land and can earn a living from it. As prices stand, dairy farmers cannot earn a living. The average price paid for milk is half what it was several years ago, making it below the cost of production. The Department of Agriculture, Fisheries and Food has calculated the cost of production for the largest operations is approximately 17 cent per litre. For the average small and medium-sized dairy farm, it is much higher at just over 25 cent per litre.

Studies by the European Union have predicted milk production will migrate in the Union. Many milk producers in the southern part of the Union will go out of production while it will increase in the northern part. I am concerned the Irish dairy industry will suffer the same fate as the Irish sugar industry.

Although sugar production and dairying probably were perceived to be the two most successful farming sectors, the former was allowed to be sacrificed on the altar of world trade. Moreover, even though we sold our producers down the Swanee, there now is a scarcity of sugar on the world market. Unless the Government takes direct action immediately, the same will happen to dairy farmers. Many hundreds of them have given up already and I could provide a list of small producers from my home locality of southern County Kilkenny who have gone out of business within the past 12 months, as well as many more who are considering so doing.

It is time for the Government to take direct action and that is what this Fine Gael motion seeks. There is a short-term glut on the global market at present which, combined with the credit problems faced by many dairy producers who built new operations to conform to EU directives, who are being squeezed by the banks in respect of their borrowings and who are selling produce below the cost of production, has created the perfect storm for such individuals. Many of those concerned will go out of business unless the Government takes some definitive action immediately. This is the reason I am especially disappointed. The Government's amendment was unnecessary because the Fine Gael motion is all-inclusive. It does not even criticise the Government greatly although I would have preferred to have criticised the Government to a far greater extent than does this motion. I do not understand the reason the Government parties failed to agree to a cross-party motion that could have been agreed on without a vote.

As previous speakers have observed, the Government's decisions in recent budgets have had a particularly detrimental effect on agriculture and farming. The installation aid grant was mentioned, as was the abolition or suspension of the early retirement scheme as well as the other cuts that affect everyone, including farmers, such as the income levy and similar recent cutbacks. I call on the Government to take urgent action but can discern no sense of urgency either in what has been discussed in the debate or in the actions of the Minister for Agriculture, Fisheries and Food thus far to ensure as many people as possible can remain viably employed in dairy farming throughout Ireland in future. I agree with Senator Ellis's point on the cost of inputs, which is the reason the Fine Gael motion included a specific point calling on the Government to try to do something to reduce such costs. I note the Government parties did not mention it in their own amendment, which is rather disappointing. I urge the Minister of State and the Members on the Government side to support the Fine Gael motion.

Amendment put.

The Seanad divided: Tá, 24; Níl, 22.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.

Leyden, Terry.
MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Fitzgerald, Frances.
Hannigan, Dominic.

Healy Eames, Fidelma.
McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Toole, Joe.
Phelan, John Paul.
Regan, Eugene.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Paul Bradford.

Amendment declared carried.

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: At 10.30 a.m. tomorrow.

Adjournment Matters.

Schools Building Projects.

Senator Paul Bradford: I am pleased to have an opportunity to speak about the plight of the parents, teachers and pupils of Rathcormac national school in County Cork. The need for a new school building has been at the top of the agenda for the local community in Rathcormac for many years. I thank the Minister of State, Deputy Haughey, for coming to the House. I will give him some background information. A new school was built in the parish of Rathcormac in 1948 to cater for the children of what was then a small community in north-east Cork. Times have changed since then, as one would expect. The population of the village and parish of Rathcormac has increased from a few hundred to over 2,000 as a result of planning and zoning decisions taken by Cork County Council over the past decade or so. Rathcormac national

school, which has 210 pupils, is based in a building that was designed for a far smaller number. The school uses nine prefabs. I understand it is proposed that a tenth prefab will come on stream in the near future. The annual cost of the prefabs is almost €100,000 — surely there is a moral in that. The local community in Rathcormac has been seeking a new school in a serious fashion for more than a decade. No progress has been made with the school building even though the Department of Education and Science is paying almost €100,000 per annum to rent prefabs. The Department agrees that a new building is needed. A site has been found and paid for, but it remains idle. I suggest that the Department should take every possible step to make progress with this project and thereby provide the community with the new school it so badly needs. From a planning perspective, the Department of Education and Science must take note of population trends. When development in a village that previously consisted of a main street, two local authority estates and one small private estate explodes to the level of having 800 or 900 houses, we must recognise the need for a response from the perspective of the Department of Education and Science. The key focus must be the high rent paid annually for prefabs, particularly during the past decade. At the time of the 1997 general election the provision of a new school for Rathcormac was at the top of the agenda in the parish. Strong commitments to provide it were made at the time. Promises were made again in advance of the 2002 and 2007 general elections. The community is anxious, disappointed and angry that no real progress has been made. I accept a site has been purchased but that makes it even more unbelievable that it has not been possible to move this project to the next phase.

I am speaking on behalf of the community of Rathcormac, including the more than 200 pupils in the school, the teachers, parents and future parents and pupils, in pointing out that it is time to move on from the 1948 school building, to build on the site acquired, to end the waste of money on rented prefabs and to provide a school that is fit for the Rathcormac community in the years ahead.

I am sure the Minister of State has driven through the village, which is on the road from Fermoy to Cork. It is a changed village having regard to the number of houses that have recently been built there. At a minimum a new school is required for the community. We discussed rural and community development some time ago in this House. School provision is at the core of such development. The people of Rathcormac should not only demand but expect their school to be provided in the very near future. I look forward to the Minister of State's response and I appeal him to ensure that this urgently needed development is progressed at the earliest possible stage.

Minister of State at the Department of Education and Science (Deputy Seán Haughey): I am taking this matter on behalf of my colleague, the Minister for Education and Science, Deputy Batt O'Keeffe, who unfortunately cannot be present. I thank the Senator for raising this matter as it provides me with an opportunity to outline to the Seanad the Government's strategy for capital investment in education projects and also to outline the current position in regard to Rathcormac national school, Rathcormac, County Cork, roll No. 17609N.

Modernising facilities in our existing building stock as well as the need to respond to emerging needs in areas of rapid population growth is a significant challenge. The Government has shown a consistent determination to improve the condition of our school buildings and to ensure the appropriate facilities are in place to enable the implementation of a broad and balanced curriculum.

All applications for capital funding are assessed in the planning and building unit of the Department. The assessment process determines the extent and type of need presenting based on the demographics of an area, proposed housing developments, condition of buildings, site capacity etc., leading ultimately to an appropriate accommodation solution. As part of this

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process, a project is assigned a band rating under published prioritisation criteria for large-scale building projects. These criteria were devised following consultation with the education partners. The original criteria were revised and refined in 2004.

Projects are selected for inclusion in the school building and modernisation programme on the basis of priority of need. This is reflected in the band rating assigned to a project. In other words, a proposed building project moves through the system commensurate with the band rating assigned to it. There are four band ratings overall, of which band one is the highest and band four the lowest. Band one projects, for example, include the provision of buildings where none currently exists, but there is a high demand for pupil places, while a band four project makes provision of desirable but not necessarily urgent or essential facilities, such as a library or new sports hall.

The proposed new school building for Rathcormac national school has been assigned a band 2.2 rating. This is in line with the level of need presenting where there is a deficit of mainstream accommodation and the deficit constitutes a substantial proportion of the school's overall accommodation. The brief for this Rathcormac national school project is to provide a new 12 classroom generic repeat design school building, including a general purpose hall and ancillary accommodation, on a greenfield site. The project is at an advanced stage of architectural planning.

As the Senator will be aware, in February the Minister announced details of 43 major building projects to proceed to tender and construction and 25 high priority projects to commence architectural planning. He will understand that it is not possible to advance all projects at the same time. It was not possible to include the project for Rathcormac national school in this announcement. Therefore, it is unlikely that it will be progressed further in 2009. Given the competing demands on the Department's capital budget, it is not possible at this stage to be precise about when this project will go to construction.

However, the progression of all large-scale building projects, including this project, from initial design stage through to construction is dependent on the prioritisation of competing demands on the funding available under the Department's capital budget. The proposed building project for Rathcormac national school, Rathcormac, County Cork will be considered in the context of the Department's multi-annual school building and modernisation programme for 2010 and subsequent years.

The allocation for school buildings in 2009 is almost €614 million. This represents a significant investment in the school building and modernisation programme. This level of funding for the building programme, at a time of great pressure on public finances, is a sign of the very real commitment of this Government to investing in school infrastructure and will permit the continuation of progress in the overall improvement of school accommodation.

I thank the Senator again for giving me the opportunity to outline to the Seanad the current position regarding the school building project for Rathcormac national school, Rathcormac, County Cork.

Hospitals Building Programme.

Senator Paudie Coffey: I welcome this opportunity to raise this matter. It relates to the replacement of the existing St. Vincent's District Hospital on the grounds of St. Joseph's Hospital in Dungarvan, County Waterford with a new 32-bed community hospital, providing GP access beds, convalescent, respite and terminal care and short-term accommodation for dependent young chronically ill people. This new unit is to be focused on the provision of non-

acute services for the community and is to complement the services of the acute general hospital.

The building has been completed for more than two months. It is awaiting the fitting out of beds, oxygen equipment and associated health care equipment. The 32-bed unit will comprise eight beds for GP acute admissions, eight beds for respite care, three beds for palliative care, three beds for young chronically sick people and ten beds for short-term convalescing care.

This unit is very much awaited in west Waterford. The projections for elderly care provision in the country, not to mind in Waterford, are increasing and will pose an increasing demand on State resources in the coming years. St. Bridget's ward in St. Patrick's Hospital in Waterford city, which can accommodate 19 people, is due to close. A new 50-bed unit is awaited in that city.

I hope the Minister of State will have good news as to when we can expect this new unit at St. Vincent's to open. It is great that the building has been completed but it would be a shame if it were left idle for any longer than is necessary. It is important that it is fitted out as soon as possible to enable patients to be admitted and cared for, as was expected when the investment was made in this hospital. I await the Minister of State's response.

Deputy Seán Haughey: I am taking this matter on behalf of my colleague, the Minister for Health and Children, Deputy Harney. I thank the Senator for raising this issue as it provides me with an opportunity to re-affirm the Government's commitment to developing community based services at a local level.

Government policy in regard to older people is to support people to live in dignity and independence in their own homes and communities for as long as possible. Where this is not feasible, the health service supports access to quality long-term residential care where this is appropriate. This policy approach is renewed and developed in the current partnership agreement, Towards 2016. The Government's objective of the continued development of community-based services for older persons is reflected in the funding provided in recent times. Since 2006, over €200 million in additional investment has been provided to develop community care services.

As the Senator is aware, the Health Act 2004 provides the Health Service Executive with responsibility for the management and delivery of health and personal social services. As a statutory body, the provision of these services, including progressing community hospitals at local level, is therefore an operational matter for the executive. The HSE is committed through its national service and capital plans to deliver services through the use of its Vote, which is provided by the Oireachtas.

In Dungarvan, construction has just been completed at the community hospital and the executive recently took charge of the building. The facility includes a new 32-bed unit. Some eight of these are additional beds and the other 24 will be replacement beds. In addition, there will be a 15-place day hospital. The new building will replace the existing St Vincent's District Hospital for older people and will provide GP access beds, convalescent, respite and terminal care and short-term accommodation for dependent, chronically ill young patients. Its role will be focused on providing non-acute services to complement those of the general hospital. The community day hospital will provide outpatient services for older persons. The intention in this regard is to enable older people to continue to live at home and avoid hospital admission. The overall capital cost of this development is approximately €12 million.

In light of the current financial difficulties generally, however, it will be a matter for the HSE to progress the equipping phase as part of its agreed capital programme for 2009 and beyond. This would have to take account of priorities determined nationally by the executive, including decisions in respect of new community facilities coming on stream. Such initiatives

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must be in line with agreed capital envelopes and must identify any additional revenue or staffing implications arising from a particular project.

Senator Paudie Coffey: I am disappointed that a commitment has not been provided in respect of the opening of the unit. A major investment has already been made in the context of the unit's construction. This again displays the lack of joined-up thinking within the HSE. There is a lack of co-ordination within the executive in the context of budgets. The building section has already overseen the construction of the unit but it does not appear that funding will be provided in respect of its being fitted out. There is no logic to this and it highlights the difficulty with inflexible bureaucratic systems such as those employed by the HSE.

I urge the Minister of State to urge the Minister for Health and Children to use her good offices to ensure the unit will be opened as soon as possible. Delivery is what it all boils down to in government. There is no point in initiating projects unless then can ultimately be delivered. We are almost there in respect of the project in question. It is a shame the elderly people of Waterford will lose out because the unit cannot be opened on foot of a lack of joined-up thinking. I again urge the Minister of State to raise this matter with the Minister for Health and Children on their behalf.

Deputy Seán Haughey: I will ensure that the Minister for Health and Children, Deputy Harney, and the HSE are made aware of the Senator's contribution.

Local Authority Housing.

Senator Pearse Doherty: Cuirim fáilte roimh an Aire Stáit, an Teachta Haughey.

I wish to refer to the hundreds of customers of Donegal County Council who took out housing loans prior to 1991 and are paying fixed interest rates in excess of 10% on those loans. A total of 973 individuals and families have loans from the county council and 242 of them are being charged interest in excess of 10%. As already stated, all of the latter were taken out prior to 1991 when one was obliged to take on a loan with a fixed interest rate for a period of between 25 to 30 years. Some of those involved are only 19 years into the term of their loans and have a further ten or 11 years left to go.

As of 1 July next, local authorities will be in a position to charge interest to borrowers at the current variable rate of 2.25%. As a result, there is a need to consider the cases of the 242 people who are paying interest at a rate in excess of 10% and also the remaining 700. We know that the latter are not paying interest at a rate of 10% or more. However, we are not sure whether they are paying 7%, 8%, 9%, 9.5% or whatever. If they are paying interest at a rate that is above the current variable rate, then it is obvious they are paying too much.

Many Senators have been criticising the banks — I am sure the Minister of State feels the same sense of anger towards them — and other financial institutions for not passing on interest rate reductions. In this instance, however, a local authority which comes under the direct authority of the Dáil and the Minister for the Environment, Heritage and Local Government is charging customers in Donegal high rates of interest. It must be remembered that those to whom I refer could not obtain loans from the mainstream lending banks — one of the conditions people must satisfy before they can apply for local authority housing loans. It is not acceptable that they are being charged interest at a rate in excess of 10% by an agency of the State.

The Minister for the Environment, Heritage and Local Government has allowed customers of the local authority to remove themselves from the situation in which they find themselves if they are in a position to refinance their loans in the private, mainstream banking market. However, the difficulty is that to apply for such loans in the first instance, they had to have been refused loans by building societies or banks. The local authority scheme was their final

option. Many of these people are social welfare recipients and are not in a position to pay back their loans. There is a concern — none of us would like to see this happen — that they may enter the sub-prime lending market and that an increased trend of house repossessions might result.

Legislation must be brought forward to enable local authorities to allow their customers who are on high fixed interest rates to refinance with those authorities and avail of the variable rate of 2.25% on offer to customers who are applying for loans at present. We must show compassion towards the people to whom I refer. I am sure this problem is not exclusive to Donegal and that it applies across the State. There are probably many hundreds if not thousands of people who are affected.

The Government last reviewed the issue of high fixed interest rates in 2001. At that stage, it decided that a State subsidy to reduce such interest rates would not be appropriate. In light of current events and concerns relating to sub-prime lenders, house repossessions, the economic downturn and the pressure being exerted on families, surely the Government cannot stand over an arm of the State charging some of its customers interest rates in excess of 10%. We do not know if the actual rate being charged is 12%, 15%, 18%, 19% or whatever and I would like the Minister for the Environment, Heritage and Local Government to provide details in this regard at a later date.

Deputy Seán Haughey: I thank the Senator for raising this matter, which I am taking on behalf of the Minister for the Environment, Heritage and Local Government. As the House is aware, the Government has a long-standing policy of facilitating the valid home ownership aspirations of as many households as possible. For many years now, mortgage lending by local authorities, backed by loan finance obtained by the Housing Finance Agency, has been a crucial means of supporting this objective. Through the agency, local authorities have been given access to loan finance at the keenest available rates, enabling them, in turn, to offer mortgage finance to borrowers who would otherwise be unable to obtain a mortgage. The applicable interest rate paid by local authority borrowers on fixed rates is set by reference to prevailing fixed interest rates at the time of a loan being drawn down.

The loans in respect of which interest rates in excess of 10% apply were issued by local authorities prior to 1991 and reflect the long-term costs of the funds to the Housing Finance Agency which prevailed at the time these loans were advanced. Rates on these loans were fixed for the life of the loan, generally 25 to 30 years. In 1989, despite the fact that a tranche of €123 million worth of 10% loans had already been issued and financed by the agency, the then Department of the Environment introduced the possibility of early repayment without penalty by local authorities, and thus by borrowers, allowing borrowers to refinance these loans in the private sector. This represents a significant concession having regard to the redemption penalties of up to six months' interest or more applied by commercial lending agencies in the event of early redemption of such mortgages. Early redemption without penalty means that the agency, which operates on a self-financing basis only, has had to bear the losses on such loans. In 2008, the cost of this to the agency was €2.4 million. The agency, through an appropriate reserves policy, has taken account of these losses in its risk management for many years.

In 2001, the position regarding high fixed-interest rates on local authority loans was reviewed in consultation with the Department of Finance. This review determined that a State subsidy to reduce such interest rates would not be appropriate, especially given the cost already being borne by the State where the holders of such loans availed of the option to re-finance in the private sector without penalty.

The Minister for the Environment, Heritage and Local Government understands the agency currently has around €33 million in 10% fixed-rate loans to local authorities on its books at 30 June 2009, with the majority having been advanced between 1986 and 1991. As the loans were

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generally over 25 to 30 year terms, typically they have less than ten years to go to maturity. While the agency does not hold specific information on the individual loans lent by local authorities, the Minister is given to understand that the average individual loan outstanding ranges between €10,000 and €25,000. Working from these figures, the repayment required to cover interest and capital ranges from €1,060 per annum to €2,650 per annum.

Long-term fixed rate mortgages are no longer available and the significant bulk of mortgage lending by local authorities is now at variable rates. Local authorities continue to offer a five-year fixed-rate option to persons taking out an annuity house purchase mortgage. The interest rate applied on these loans is 5.50% but will be cut to 4.40% from 1 July 2009. This compares with a variable mortgage rate of 2.25% since 1 June 2009.

Local authorities may allow borrowers with the shorter five-year fixed-rate mortgages to redeem early or convert to a variable rate within the fixed five-year period. However, in line with practice in the private mortgage market, the HFA requires that any prepayment of or conversion from a fixed-rate loan must compensate the agency for any losses that might arise. Breakage costs incurred by the agency and charged to local authorities must be matched by a charge by local authorities on borrowers. The breakage cost is based on the outstanding balance and the remaining fixed-rate period.

The Minister is satisfied that the arrangements in place strike an appropriate balance between the re-financing aspirations of borrowers with fixed-rate local authority loans and the extent to which the State can be expected to bear the associated costs.

Senator Pearse Doherty: I thank the Minister of State for his reply. Perhaps he might bring a number of points to the attention of the Minister of State with responsibility for housing, Deputy Finneran. All recipients of these loans in excess of 10% should be informed of mechanisms to re-finance in the private sector, if they have not already done so, and they should be assisted in doing that because many of these people do not know this facility is available.

For the many who will be refused by the private banks and lending institutions, we need to find a way for the local authorities to allow them to re-finance. The Minister of State said in his reply that the Department was not aware of individual situations. This is one example: €17,000 borrowed, €32,000 repaid and still there is €10,000 left to repay. That means the customer of Donegal County Council in question will pay well in excess of 100% of what he or she originally borrowed. The problem is that such a person will not be able to re-finance in the private sector, so there is still an anomaly there that needs to be addressed. I should appreciate it if the Minister of State, Deputy Haughey, would bring that to the attention of the Minister of State, Deputy Finneran.

Deputy Seán Haughey: The Senator's contribution is very helpful. I am aware that the Minister of State, Deputy Finneran, in particular, is very innovative in the way he looks at all these issues. He has taken up his post with an open mind on how to improve matters, particularly the first point made by the Senator about an information campaign. I am sure something could be done in that regard, but obviously this is a matter for the Minister of State and I will bring the Senator's comments to his attention.

The Seanad adjourned at 7.45 p.m. until 10.30 a.m. on Thursday, 25 June 2009.