



# SEANAD ÉIREANN

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*Dé Céadaoin, 28 Aibreán 2010.*  
*Wednesday, 28 April 2010.*

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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Paidir.*

*Prayer.*

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## **Business of Seanad.**

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

The need for the Minister for Education and Science to inform the House, with regard to the application of the recent public sector pay cut to contract researchers in third level institutions, the reason the European Commission has indicated that it will refuse to make future payments to universities which are not paying Marie Curie fellows in full and to confirm if she plans to review the situation with regard to Marie Curie fellows, as the funding will otherwise be lost to the universities concerned.

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

The need for the Minister for Finance to clarify the status of the repayment to car dealerships of their scrappage scheme payments since 1 January 2010.

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

The need for the Minister for the Environment, Heritage and Local Government to provide an update on his role in protecting the Liffey Valley Park and also give his view on the need for a co-ordinated approach to protecting and enhancing the Liffey Valley Park lands, involving all of the relevant local authorities and agencies perhaps under the leadership of the Office of Public Works.

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

The need for the Minister for Health and Children, in the light of the current block on Russian adoptions, to give a timeline by which the block can be lifted in order that Irish adoptions can recommence with Russia.

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

The need for the Minister for Finance to bring forward proposals that will see an end to the application of vehicle registration tax in the State.

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

[An Cathaoirleach.]

The need for the Minister for Health and Children to report on the establishment of a national hotline number for missing children and the initiating by Ireland of the operation of the agreed common EU number for missing children and to indicate if this can be done on an all-Ireland basis.

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

The need for the Minister for Agriculture, Fisheries and Food to outline the reason the garden-nursery sector was not included in the recent frost damage scheme.

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

### **Order of Business.**

**Senator Donie Cassidy:** The Order of Business is No. 1, Inland Fisheries Bill 2009 — Committee Stage, to be taken at the conclusion of the Order of Business and adjourn at 2 p.m., if not previously concluded; No. 2, Fines Bill 2009 — Committee Stage, to be taken at 3 p.m. and adjourn not later than 5 p.m., if not previously concluded, and No. 38, Private Members' motion No. 14 regarding the smarter travel initiative, to be taken at 5 p.m. and conclude not later than 7 p.m. There shall be a sos between 2 p.m. and 3 p.m.

**Senator Liam Twomey:** The news that a eurozone country has seen its rating, regarding the repayment of loans, reduced to junk bond status is incredibly serious for eurozone economies. Following from what Senator Donohoe said yesterday, I call for an urgent debate on the euro. We must look at the future of the currency and the impact it will have on the economy, events outside our control and our ability to recover. Last night we had a debate on banking during which I tried to point out to the Minister of State, Deputy Mansergh, that we needed jobs and growth and possibly even inflation in order to come out of the financial doldrums. Although the euro has saved us to some extent, in other ways it is holding us back. We, therefore, urgently need a serious debate on our role within the euro system and where we fit within it.

A report published yesterday indicates that 80% of abused children are abused by family members and people with whom they have close contact. There has been much debate in the House about clerical sexual abuse, but the vast majority of childhood abuse cases happen within the home, with the perpetrator being a person close to the child. This has been lost in recent arguments. There are big issues with regard to the protection of children. I have seen instances where children were not believed, where when such an allegation is made, the family may split and there is often a reluctance to report the abuse. The House needs to have a debate on the issue and how we deal with child abuse in our communities in order that the headlines in recent months will not distract from the fact that the vast majority of the child abuse cases occur within the home.

**Senator Joe O'Toole:** This is Workers' Memorial Day. During the past week we read that dozens of workers had been blown to smithereens in an explosion when an oil rig platform went on fire. That was a big incident which hit international headlines, but all of us, on both sides of the House, know of other incidents, perhaps involving a farm worker, a farmer, the child of a farmer who drowned in a slurry tank or a person injured in an industrial accident who lost a limb or suffered in one way or another. Such things happen constantly. For instance, a piece of a crane may fall on a worker on a building site. Today people worldwide are being

asked to reflect briefly at some stage, preferably at noon when there will be one minute's silence, on those whom they know and remember who have suffered in industrial accidents. I say this to make us conscious and aware of the issue.

I listened today to a Member of the House who, not happy enough with the mess that has been created in the profession of politics in the past three or four days during the undirected, misguided and unintelligent debate on pensions——

**Senator David Norris:** Hear, hear.

**Senator Joe O'Toole:** ——said we should look at retired politicians working in other parts of the public sector, perhaps in order to cut back their pensions also. It is only a matter of time before we look at retired teachers, gardaí or Army officers doing some extra work here and there. It is time leadership was shown on the issue. I am with the Taoiseach on this one: it is for people themselves to make their own personal decisions. Apart from this, I would like people to reflect on what we have done in politics. I would like the House to discuss the mess we have created of the profession of politics in recent times. I shall give some examples. The only group among the total of 500,000 public servants who were deprived of their long service increment were Members of both Houses, yet we ask people to enter politics. Let us take as an example a person aged 30 years on the brink of a very successful career — a high-flier. Let us say a person has been in the Oireachtas for 20 years but loses his or her seat at 50 years of age, having put family security at risk and a career on hold. He or she will be without a pension or payment for 15 years. Who will enter politics if we make such a change?

**Senator David Norris:** Well said.

**Senator Joe O'Toole:** I want people to consider that the Ministerial and Parliamentary Offices Act was not brought forward by accident or through backroom chat by a number of people here and there. It was brought forward in the hungry 1930s and 1940s when it was considered important to draw people in who could make a contribution to public life and that they should have some element of comfort and safety. We cannot determine how people will vote in the next election, but we can determine the conditions of salary and payments that will allow the profession of politics to be attractive. The way we are going no one will enter public life. This will never be an issue for me because I will never be a Minister. However, I speak as someone who has a passion for the job which we are sending down the sink. We are running in front of a populist press, afraid to take on issues and argue the point. Of course, we should correct what needs to be corrected; some corrections were made in recent days, with which I do not disagree, but that is not the point. We must look at the whole picture. I, therefore, ask the Cathaoirleach to look very seriously at the amendment I propose to the Order of Business that we adjourn in order to discuss the profession of politics and how we can recruit, retain and maintain people within it.

**Senator David Norris:** Bravo.

**Senator Alex White:** Yesterday there was a report on third level education which gave information that might have been obtained under freedom of information legislation. I ask the Leader to arrange a debate as soon as possible on the important question of funding third level education. Apparently, the Higher Education Authority is of the view that there will be a requirement for more than €4 billion — a familiar figure has been given to the banks and other places in recent times. However, this €4 billion is to meet a most important requirement in order that we can invest in our third level education system and, ultimately, the future of the country.

[Senator Alex White.]

I am not sure whether the publication of this report — I do not know if the information was obtained or leaked — is intended to soften up public opinion in regard to the reintroduction of university fees. However, it should form one important element of the discussion we should have in the House. The reintroduction of fees would be a mistake. This side of the House is always being accused of being negative, including during yesterday's debate on banking. However, one thing we have managed to do in the past 15 years, as a country and society, is maintain a progressive level of funding and a progressive approach to third level education, for which people are not charged. We regard it as a public, not a private good to be parcelled up and sold to the highest bidder. People are educated based on their ability, rather than on the wealth of their parents.

I am often struck by those who say it is mainly wealthy people or those who have money who are able to avail of free fees. However, whenever the issue of equality in the taxation system is raised, perhaps by taxing more than we do those with greater wealth, the very same individuals recoil from such a suggestion. That is the real contradiction. If we want to have equality, the single, best and most progressive instrument we can use, in terms of income and generally, is the taxation system. We should maintain our free third and second level education systems at the points of delivery to young people. If we cannot educate and give them an opportunity for the future, we will not achieve anything in this country.

**Senator Dan Boyle:** I agree with Senator Twomey that we should have a debate on the euro, although it is not so much a matter of whether we should be in the eurozone. At the time of our entry I argued on behalf of my party that there would be times when, as a nation, we would need an opportunity to be able to change interest rates and control inflation in a certain way and increase money supply. However, for the most part, being within the eurozone has been to our benefit in the current crisis. What euro members need to discuss is the control of interest rate at a figure of approximately 2%. Senator Twomey is right about our needing inflation to a certain degree to work our way out of the crisis. A figure of 4% might be more realistic. As a euro member country, we need to contribute to that debate. As a House of the Oireachtas, it is important that we consider in the current context how that debate might be held at European level. It is important to remember that the Greek junk bonds, as defined by Standard and Poor's, are at the rate of 15.8%, whereas Ireland's are at 5%. That is still below the peak we reached with our own bonds in 2009.

In recognition of the fact that the Natural History Museum reopens today, I ask for a debate on museums in Ireland and their use by the general public. They should be acknowledged and properly resourced by the political system.

We must have a debate on politicisation in the Garda. Yesterday's speech from an outgoing member of the Garda Representative Association executive was serious in that it discussed Government corruption. Whether it exists or not, for it to be said in a public context by a representative body of our gardaí means the claim must be explained, backed up and put through the judicial process. If somebody uses the issue in a political context, it has serious consequences for how the police are perceived in this country. Every member of this House should react to such statements. We should have a debate in the Seanad to ensure discussion does not occur in the wrong context in the rest of the country.

**Senator Paschal Donohoe:** I support the point made by Senator Boyle. I welcome opposition to the Government and especially to the Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, but the Garda Síochána is charged with implementing the law and should not under any circumstances step into the arena which creates law, which is politics.

**Senator David Norris:** Hear, hear.

**Senator Paschal Donohoe:** Some of the points in the speech would be investigated by the Garda and for those lines to be blurred is a profound mistake. I say this on behalf of the individual gardaí who had to rush to a gangland murder on Friday night and who stand outside head shops all over Dublin city. Such rank and file members are the people who will suffer from such statements and a line was crossed yesterday that should not have been. The issue merits debate in the House and a response from Members.

I want to pick up on a theme from yesterday and note the comments of Senator Twomey. It is imperative we have a discussion on that issue. Ratings agencies yesterday made statements on the creditworthiness of Portugal and there were further statements relating to Greece. These are the same ratings agencies that have played such a dangerous role with regard to our banks and they are now making statements on countries.

In 2007 and 2008 there was a degree to which political systems sleepwalked into a banking crisis. We are now on the verge of sleepwalking into a crisis involving the solvency of nation states. The very least this House can do is begin to discuss this. We are on the precipice of what could be a profound crisis for European nation states and across the world. The seriousness of the matter cannot be understated.

**Senator John Ellis:** I agree with Senator O'Toole's remarks and was going to raise the subject. We are turning politics into a profession seen as being in the worst category. We are viewed as people sponging off the State without giving a return. We are trying to attract people to politics but if they are told that coming in at 30 they will not get a pension until they are 65, nobody will participate. We will end up with only teachers being elected, although I do not say this with any disrespect because they have as much a right as anybody else to be elected to these Houses, or people who are exceptionally wealthy and can afford to be elected to the Oireachtas. Ordinary people setting out in life will not be able to be elected. A young doctor, solicitor, accountant or other professional or anybody under 50 will not even think of becoming a politician. We will end up with a House filled with geriatrics or billionaires.

Senator Donohoe mentioned the ratings agencies such Standard & Poor's which are manipulating world finance currently. Some of these big groups are taking enormous profits at the expense of the ordinary citizens around the world and a debate on the issue would be welcome.

I would appreciate it if the Leader took up with the Minister for Enterprise, Trade and Employment or the Minister for Agriculture, Fisheries and Food the issue of prices being paid to primary producers for products which end up on supermarket shelves across Europe at 30% more than primary producers receive in the UK. There is something wrong and there should be an investigation into the matter. The sooner that is done, the better because the issue has been raised in the House on a number of occasions. It has come to a head in recent weeks as we can see the prices being paid to primary producers here *vis-à-vis* what is paid in the UK.

**Senator Feargal Quinn:** I usually object when we seek a division on the Order of Business to delay matters to have an urgent debate but I second Senator O'Toole's call today. This topic has caught the imagination of the House and it was interesting to hear both Senators Ellis and Donohoe speak on it. If we are to attract the best people to politics, we must ensure it is regarded highly. The matter is not just relevant to politics but to the public service. The debate should not just be about politics and the Legislature but the entire public service. We want to attract the best people to the public service and we should act as if we were the owners of that public service who have been entrusted with a responsibility to attract the best people, as Senator Ellis noted. I think of Senator Donohoe as an example. He is a young man in business

[Senator Feargal Quinn.]

with management experience who gave it up to make a life in politics. We must attract many more people who would be willing to give up their jobs for politics.

This debate should take in the separation of those who make legislation and those who put it into force. I was disgusted at the speech from that GRA representative. Such action is unacceptable and I cannot believe it would be supported by the majority of the members of the Garda Representative Association. There must a separation of these issues. To use words accusing the Government of national sabotage, corruption and other actions is unacceptable and we cannot have somebody who is supposed to enforce the law using such terms.

Before we have such a debate, I ask everybody to consider reading two articles written by Mr. Eddie Molloy for *The Irish Times* on 8 April and 9 April. These essays were very critical of the way we run the country and how the Legislature has organised the Civil Service. The second article outlines seven steps we can take. A Secretary General was quoted in the article as saying not one day of training in management had been given to him. He may have been a specialist in a subject but he never received training in management before he became Secretary General of a Department on which we rely. We should ensure we study those articles before we have a debate but I urge us to have the discussion today.

**Senator Ivor Callely:** I welcome the new supports for survivors of thalidomide that will meet the needs of the Irish survivors into the future through increased financial assistance and additional supports. I congratulate those who have been supportive of the two groups which made submissions. There is an issue arising from what we have agreed to put in place, although I welcome the initiative. I know there are different views between the two groups about the measures.

I have mentioned time and again the failure of the HSE and this view has been endorsed by these groups and recognised by the measures put in place by the Minister for Health and Children, Deputy Harney. One of the measures is the designation of a senior manager in the HSE to act as a liaison officer for service needs of the survivors. That sends a clear message that the HSE has failed these survivors in putting the required service needs in place for them, as the people were unable to contact the necessary people to get services. It is great that the 32 people will now have a liaison officer available to them. The length and breadth of the country, good representative bodies that have been seeking liaison officers have been unable to obtain any because the HSE has failed them. It is time for a debate on the success or otherwise of the HSE and the need for regional structures to be put in place so those who need to tap into the services and public representatives will not get lost in the mass of HSE managers.

The escalating number of suicides is a concern. We have the fourth highest rate in the EU. In light of the current financial difficulties, the actions of bank officials of certain institutions and the associated pressures, I welcome the National Office for Suicide Prevention's annual forum, which is under way in Dublin.

**Senator Nicky McFadden:** I wish to raise an issue that has disturbed me. On Monday, I visited a nursery garden centre in my constituency where I witnessed at first hand the utter devastation caused by the bad frost early this year. The cost to the nursery's owner in terms of plants is more than €600,000. All the garden centre's plants were dead. The gentleman employs 18 people, but he will not be considered for compensation because he did not attend the meeting the potato growers had the benefit of attending. For the life of me, I cannot understand why there is a difference between a nursery owner supplying hedges all over Ireland and potato

growers. He is getting up to five calls per day from customers asking him to take back dying plants. It is demoralising.

It is an award-winning nursery and I fail to understand why the Minister for Agriculture, Fisheries and Food, Deputy Smith, will not consider the owner in the same light as the potato growers and allow him to be compensated. The scheme closed in February, but this devastation was not apparent until the end of March. Will the Leader use his good office to speak with the Minister about a compensation package for nursery owners, as I understand it to be a nationwide problem? The man in question was out on Christmas Eve wrapping his plants in fleece, which was blown off by the wind. I have never seen anything like it. I ask the Leader to intervene and to let me know how he gets on.

**Senator Niall Ó Brolcháin:** I join with Senators O'Toole, Ellis and Quinn in calling for an important debate on participation in politics. We held a good debate last night on women's participation in politics and I hope to contribute to it when it resumes. There is a discussion on Article 41 and the belief that it needs to be updated in a future referendum, but it is important we keep the debate in context. I would not agree with the notion that people should be getting pensions while still working. It is not appropriate.

We need a proper debate on how to get full participation from a broad spectrum of society. If we consider those who participate in politics, there is an extraordinary number of publicans, teachers and lawyers in the Houses and on local authorities. To have a properly representative democracy, we need to encourage people from all trades, both genders and the entire spectrum of society, including newcomers to the country, to participate in politics. We need a properly open, democratic system. The debate must be ongoing.

There is a view within the media that politicians are not working unless they are sitting here shouting and roaring at one another.

**Senator Paschal Donohoe:** Yes.

**Senator Niall Ó Brolcháin:** What politicians actually do is a mystery to many people, so there must also be an educational process. I hope the debate will be soon. I will not oppose the Order of Business, but I welcome Senator O'Toole's raising of the issue.

**Senator Jerry Buttimer:** The Senator does not have the courage of his convictions.

**Senator Paudie Coffey:** Several times, I have listened to Senator Buttimer's calls for a debate in the House on the future of politics. The point he was trying to make was that politics should not be the preserve of the rich.

**Senator Donie Cassidy:** Hear, hear.

**Senator Paudie Coffey:** I heard him make that statement a number of times. I agree with Senator Ó Brolcháin, that there should be no barriers to anyone, including young people, entering the political arena. It should be accessible to people from every background because we need to hear the diverse views of all sectors of society.

I would worry if politics became unattractive. Politicians' reputations have damaged the body politic in recent years. A small minority contributed to the problem. However, I have always admired every politician or candidate who has put his or her name on a public ballot paper and stood before the people. I say this every opportunity I get at a public forum. We need a debate on the future of politics so that it will remain attractive to young people who might wish to enter it. The realisation is beginning to hit home.

[Senator Paudie Coffey.]

Will the Leader arrange for a debate on youth unemployment? Thousands of young people are leaving our shores on an almost daily basis. Many more are sitting at home scratching their heads and wondering what to do. I appreciate that many training courses and agencies are trying to assist such people, but we should consider new and alternative ways of returning young people to the workplace, for example, broadening internship programmes and community employment schemes to increase the flexibility afforded by agencies such as FÁS. We should examine the role of FÁS and how it will assist young people. There is much confusion about to which Department FÁS will be attached. I spoke with FÁS officials who do not know who their direct line Minister will be. This matter must be clarified as soon as possible, as people do not know whether FÁS will be in the Department of Education and Science or Enterprise, Trade and Employment. We must remove the confusion, send a clear message to the country and start using inventive and alternative ways to return young people to employment. Will the Leader consider this matter for a debate?

**Senator Marc MacSharry:** Last weekend, the Irish League of Credit Unions, ILCU, had its annual conference, at which it moved a motion that it intends to discuss with the Government and that I have often raised in the House, namely, to limit the interest rate chargeable by licensed moneylenders. As Members will be aware, there are licensed moneylenders who are charging 187% APR in this jurisdiction or as high as 2,500% in other jurisdictions. A rate of 30% would be more than adequate and we should begin to consider the matter.

I wholeheartedly agree with my colleague, Senator O'Toole, in his call for a debate on politics. A friend recently told me that, given the era in which we are and the media's seemingly frenzied rush to attack all things connected with the body politic, it reminds one of post-revolution France where everyone with clean clothes was lined up for the guillotine. It is a dangerous time where, above all else, real leadership is required.

In this context, I agree with Senator Quinn and others, in that I hope the Taoiseach and the Minister for Justice, Equality and Law Reform have sent for the Garda Commissioner this morning. What we heard yesterday was reprehensible. Such words from gardaí were disgraceful. There is no question but that we are in difficult times in terms of industrial relations and pay levels. As Senator O'Toole highlighted, even Members of this House have been unjustly treated in terms of the abolition of increments, something that no other section of the public service has endured. We are all conscious of these difficult times.

Notwithstanding that, James Connolly would not be proud of the theme of the current work to rule. This morning when representations I made during the past three months were responded to, I was told that they could not be dealt with because of the work to rule. However, the people in question will take their salaries in the meantime. That is wrong. A pay agreement has been proposed and I ask the trade union movement to hurry up and make a decision so we can move forward. Partnership is the only way to move forward. At least there is a bit of honour in walking up and down outside on strike, but taking the money without dealing with the legitimate concerns and representations of the public on critical issues such as health and social welfare is equally as reprehensible as the words of the gardaí yesterday. I hope the appropriate action will be taken and the appropriate leadership given.

**Senator David Norris:** I agree with my colleagues who spoke about the matter of the Garda convention. I have always believed in freedom of speech and still do. It may well be legitimate for individual citizens to hold and, in some cases, express extreme views such as those that have been aired. However, we are not discussing an ordinary citizen. The person in question is a representative of those who are the guardians of the peace and the defenders of the

State. At his organisation's conference a high level official attempted, in effect, to impeach a legitimately elected Government, used words such as "sabotage", "treason" and "corruption" and tried, in particular, to finger one political party, namely, Fianna Fáil. I do not hold a brief for Fianna Fáil or any other party because I am an Independent. However, if we want effective and decent government, we must draw the line somewhere. What I outlined was a highly dangerous course to take. A number of highly decent gardaí, whom I hold in high respect, would have been taken aback by what was said. I invite the membership of the Garda Síochána, regardless of whether they are represented by the association in question, to stand back and resist an invitation to become involved with this extremely dangerous soundbite culture. One of the words used was "corruption". I accept that there is corruption in international financial circles. I am under a fatwa by the media in respect of this matter because nothing I have ever said about economics, either in this House or elsewhere, has ever been reported. I am glad, therefore, that six months after I began to pose questions about Standard & Poor's and other rating agencies, the remaining Members of the House have joined in. Perhaps the media will listen on this occasion.

A great deal is said about the systemic importance etc. of banks. This tells me one thing, namely, that no one has the courage or the testicular fortitude to take on the system.

**Senator Michael McCarthy:** Senator Norris should call them balls, for God's sake.

**Senator David Norris:** Such fortitude is what is needed in order to take on the system, of which Standard & Poor's, Fitch Ratings and Moodys are part. These companies are completely corrupt, particularly as they were involved in rating the toxic bundles that precipitated the entire financial crisis. Goldman Sachs corruptly profited as a result of Greece being sent down the slide. No one is taking action in this matter.

**An Cathaoirleach:** The Senator has made his point.

**Senator David Norris:** I again call for Standard & Poor's and the other companies to which I refer to be wiped off the international map and for a truly independent ratings agency to be established under the auspices for the United Nations.

**Senator Jim Walsh:** Last night's edition of "Prime Time" contained a report on the murder of Eamonn Dunne in Cabra last week. The programme which was excellent clearly illustrated that the gentleman in question was heavily involved in a number of murders that had taken place there and in surrounding areas and caused one to question why he was not already in prison. It emerged on the programme that criminal gang members were abusing the system of judicial review and using it as a form of delaying tactic. In addition, there are issues with regard to bail. It is time the House engaged in a debate on whether the common law system is failing the State.

The programme to which I refer also highlighted the contribution the Garda Síochána made to the protection of society. It is the only force that stands between us and anarchy. The programme clearly illustrated the importance of the Garda Síochána to society. In such circumstances, I join speakers who have stated the speech the president of the GRA was reportedly going to deliver yesterday was reprehensible. It was a corruption of the pledge of impartiality, which each garda is obliged to take. The Defence Forces and the Garda Síochána must be beyond partisan politics. Extreme views such as those expressed raise questions about the capacity and ability of the individual involved to carry out his duty to society in an impartial and fair manner. I carried out some research earlier this morning and have discovered that the pay scale for gardaí commences at almost €30,000 and rises, after ten or 11 years, to €50,000. The pay scale for police officers in Britain commences at £22,000 or approximately €25,000 and

[Senator Jim Walsh.]

rises to £35,000, or €40,000, after ten years. Gardaí, like all of us in the public service, are exceptionally well paid in comparison to their counterparts elsewhere. I compliment Senator Donohoe on the manner in which he addressed this issue. What he said was in stark contrast with the comments made by Fine Gael's spokesman on justice in the Dáil yesterday, which were completely irresponsible.

**An Cathaoirleach:** That matter is not relevant to the business of the House.

**Senator Jerry Buttimer:** I renew my call for a debate on the future of politics, a matter I have raised on numerous occasions. Yesterday's events illustrate that there is a disconnect between the body politic and the real world. It behoves us, as Members of this House, to represent the people and give them a voice. We are on the verge of making politics the profession of a chosen few, be they business people, farmers, teachers or public sector workers. That must never be allowed to happen. We are returning to the days of the part-time politician.

I seek a debate on the role of representative organisations, particularly in the light of the remarks made by the president of the GRA at that organisation's annual conference yesterday and the speech he proposed to make. It is important that members of the Garda Síochána stand aside from politics. However, we must not lose sight of the fact that there is a major level of anger among those in the public sector about the disproportionate way in which they have been affected by the decisions taken. It is wrong and disingenuous for Members of this House to create a further barrier in that regard. Senator MacSharry invoked the name of James Connolly. What would James Connolly say to the Government which has brought the country to the edge of bankruptcy and overseen a massive rise in unemployment and inequality?

**Senator Michael McCarthy:** Hear, hear.

**Senator Jerry Buttimer:** If he was alive, James Connolly would be on the streets promulgating change and a different course of action.

When will time be made available for a real debate on youth unemployment? Let us consider the number of people under the age of 25 years who have no jobs or a sense of hope and lack a sense of fulfilment. Senator Callely, with whom I seldom agree, is correct when he states there has been a serious increase in the number of people with mental health issues. However, there is nothing other than soundbites, promises of action and mealy-mouthed words forthcoming from the Government. It is time the House debated the future of politics and youth unemployment.

**Senator Ann Ormonde:** I endorse all the points made on the role of politics, an issue on which I have requested a debate on many occasions. Yesterday we engaged in a long debate on the role of women in politics. Having heard about what went on at the GRA conference and become familiar with the contents of the speech the president of that organisation proposed to deliver, I am obliged to ask whether anyone would want to enter the political arena. Politics is a noble profession and every Member of the Dáil and Seanad provides a public service for 12 hours or more each day, six days a week. We are not seeking kudos for this because it is what we came here to do. I want to serve the people and do not want to spend my time here debating financial matters. I could have enjoyed a very nice life outside the House, but I wanted to serve. I ask that the debate that has been requested also focus on what public service means. The reports in today's newspapers all focus on money and pensions.

I have visited schools and spoken to young people and I am aware that they will not seek election to the Houses. They are annoyed with politicians, which is a pity. People might disagree with certain policies, but they should not engage in character assassination. That is what is

happening in the political arena and those in the media are only delighted when some Member of Parliament makes a snide remark and they can then state this illustrates we are all corrupt. We only have ourselves to blame for what is happening because we are all focused on gaining votes in the next election. We must get real and do the job with which we are charged. We need to earn people's respect. We must not cave in on each occasion on which an issue arises and must stop playing the man instead of the ball. I accept that it will not be possible to facilitate a debate on this issue today, but I will be one of the first Members to indicate a desire to contribute to such a debate. A long discussion on the profession of politics is required.

**Senator Ivana Bacik:** First, I thank the Leader and other colleagues in the House for such an excellent debate yesterday on women's participation in politics. It was historic and was the first time this matter had ever been debated formally in either House of the Oireachtas since the foundation of the State and I am delighted it took place. I also am delighted there was so much interest that it will be continued, I hope on a not-too-distant date. There also was enormous interest from members of the public and members of interested groups, as was evident in the Visitors Gallery.

I also seek a debate on the future of the National Archives. I have called for a such a debate previously but I thought it was appropriate, given that others already have welcomed the reopening of the Natural History Museum or "the dead zoo", as it is affectionately called. It is great to see the reopening of this tremendous resource for the people of Dublin. I am delighted it is reopening after a number of years of closure but in that context, a debate is required on the manner in which we preserve our national heritage and on our museums and archives more generally. I have spoken in this House previously, including yesterday, on the need to ensure the maintenance of the integrity of the National Archives in particular. In common with others who work in historical research and archival studies, I am very concerned about the proposal to merge the National Archives into the National Library. This proposal has met with immense opposition from expert archivists and historians and no evidence has been produced by the Government to provide a rationale for this proposal. I already have noted that a well-attended conference on this matter, entitled Archives in Crisis, was held in Trinity College on 10 April. The Minister should attend this House to hear Members set out the reason the proposed scheme regarding the National Archives is ill conceived and the reason it is so important to preserve the country's national archives. This pertains to the manner in which we preserve our heritage and on a day when Members discuss preserving the exhibits in the dead zoo, and quite rightly, they also must think about preserving a different sort of exhibit, that is, our archives.

**Senator Labhrás Ó Murchú:** There is an evident connection between the controversial statements made at the Garda Representative Association conference and the carefully cultivated negative image of politicians. While Ireland undoubtedly can boast of one of the finest police forces in the world, at the same time the statements made yesterday bordered on anarchy. They were absolutely irresponsible and did no favours to the rank and file members of the force who put their lives on the line daily to protect the citizens. People throughout the world have endeavoured to get rid of dictatorships and replace them with democracy. Democracy has served this country particularly well but one certainly could be forgiven for believing that a trend exists at present whereby it could be replaced by an ever-aggressive media, which is highly worrying. When I refer to a connection between the two issues, I do not believe the statements made at the aforementioned conference would have been made in a different climate.

Consequently, we must reflect for a moment on whether this atmosphere has been created and whether a section of the media definitely is undermining the democratic structures of this

[Senator Labhrás Ó Murchú.]

country by having as targets people who genuinely entered public life to give service with the best intentions in the world. If such a development exists, it must be considered and I certainly would welcome a debate in this House. However, this would not be a debate in which Members would defend themselves as Members of this House or on a personal basis. Instead, it specifically would consider Members' role in this House while at the same time debating what should be the role of the media in a democracy.

**Senator Michael McCarthy:** I join Members in seeking a debate about politics and in particular, as I have stated consistently, on the role played by the media. There has been a huge chipping away at the terms and conditions of Deputies and Senators and at those of their colleagues on cash-strapped local authorities. After the introduction of the swiping system on 1 March, one would have imagined that journalists' appetites regarding where Members are and what they are doing would have abated somewhat. However, a freedom of information request has been made, the response to which, incidentally, will cost the State money, as to how many people swiped and how often they swiped for a two-week period in March. Given the enormous economic difficulties faced by thousands of people, one would imagine that journalists' time would be better spent in concentrating on the real issues.

On the other issue raised in this House on the reaction to comments made by the outgoing president of the Garda Representative Association, my view is simple. There are thousands of workers in this country, both public and private. We should recall the business agenda of some colleagues who propped up banks, such as our colleagues in IBEC, for example, whose six largest members were the banks that engaged in the criminal practices that have resulted in billions of taxpayers' money being required to prop up that system. While these guys have got off the hook, teachers, gardaí, nurses and local authority workers now must pay the price. I never heard as much excitement on the part of the Government when its own Members were propping up banks to the tune of billions.

**Senator Donie Cassidy:** That is unfair.

**Senator Michael McCarthy:** Nevertheless, when one public sector worker speaks out on behalf of his organisation, the response is over the top.

**An Cathaoirleach:** The Senator seeks a debate on this issue.

**Senator John Hanafin:** I join the calls for a debate on the role and participation of people in politics. I am particularly mindful of the manner in which the media represent what Members of these Houses do and how they sometimes misrepresent them. It is bad enough to have Opposition Members, who are part of our own political group, misrepresenting the Government.

**Senator Michael McCarthy:** Is that our fault?

**Senator John Hanafin:** However, to have the media misrepresenting——

**Senator Maurice Cummins:** We are all wrong. Everyone in the country is wrong.

**Senator John Hanafin:** It amuses me at times to hear people misrepresent the facts to the effect that Fianna Fáil props up the bankers, as though intelligent politicians, who have won three general elections on the trot and whose instincts enable them to see around corners politically, have decided that their best role to be re-elected for a fourth term definitely would

be to support the bankers. That is nonsensical and ridiculous and is not even worthy of a knee-jerk reaction.

Worse, however, were the comments of the president of the Garda Representative Association. This obviously is a group that deserves its privileged position in society because its members uphold the law for everyone and are obliged to deal with the criminal groups. However, they have suggested to those criminal groups that the people who make the legislation of this country are corrupt and thereby have given a bad hostage to fortune. The comments made by the president of the Garda Representative Association were so inappropriate that I must ask whether the association's members seriously consider what people want them to do. A recent poll that appeared in my local newspaper stated that 91% of people wanted the public service to accept the pay deal agreed to at Croke Park, while 9% did not. We in the public service are in a privileged position and must share the burden.

**Senator Donie Cassidy:** Senators Twomey, O'Toole, Alex White, Norris and Walsh all expressed their views in respect of banking, the difficulties being experienced at present, on the ratings agencies, the deliberations regarding Greece and all the events related to the Greek economy. We must also acknowledge that the amount of funding sought by Bank of Ireland the other day was three times oversubscribed. Not alone was this a vote of confidence in Bank of Ireland but it constituted a vote of confidence in Ireland plc, which certainly should be noted. Senator Twomey was supported by Senator Boyle in calling for a debate on the euro and I have no difficulty in having such a debate take place.

While welcoming the reopening of the Natural History Museum, Senator Boyle called for a debate on museums in general while Senator Bacik called for a debate on the National Archives. My family and I have enormous experience in the running of a museum on a day-to-day basis and consequently can shed light on our experience, which was not very pleasant. I refer to the ability of the State agencies to operate without VAT or anything, while being completely funded by the State, whereas the private sector receives no funding, help or grant aid and is obliged to pay VAT. Consequently, I certainly would welcome a debate on this subject. Every museum in the world must have a must-see element to it. Otherwise, people will visit once and never return. I believe that Ireland, with a small population of 4.5 million people, should encourage indoor, all-weather tourist attractions that operate on a 365-day basis and are family friendly. My experience in this area has been a great deal of encouragement from all Government agencies, all political parties and Ministers of the time with very little action. I would be delighted to arrange for a debate on this matter to provide an opportunity for a sizeable number of organisations to exhibit the rich heritage we have in which a great number of tourists would be very interested.

Senator Twomey called for a debate on a report on child abuse. I have noted that a debate on the report is to be continued. I will come back to the House on this matter in the morning, as this is due to take place in the next week or so. It is an alarming statistic that 80% of the child abuse is family related. I have no difficulty in arranging for this report to be brought before the House for a further debate on this issue. Senator O'Toole acknowledged that today is Workers' Memorial Day and I join in supporting his remarks.

Senators O'Toole, Ellis, Quinn, Ó Brolcháin, Coffey, MacSharry, Buttimer, Ormonde and Hanafin called for a debate on people involved in politics, on the fact that those who serve in the Dáil and Seanad are now one of the few groups not included in the public service retirement provision and on the fact that all incremental benefits Members had were fought for hard down through the years. I have no difficulty in arranging for an all-day debate on this matter. Such a debate would be timely. I want time to consider this matter because my initial reaction is that while it is of an urgent nature and I fully agree with Senator O'Toole's request and with

[Senator Donie Cassidy.]

the other colleagues who have called for it, such a debate should be held in public. I want to check the possibility of having such a debate televised live. Such a debate would present an opportunity for us to have a right of reply and to have the debate unedited. We want the people to see the good work that is taking place on their behalf in Seanad Éireann by Members of the Oireachtas, most of whom work long hours, some 80 to 100, every week. The truth of the news is not being imparted to the people and that poses a serious challenge to our democracy, as Senator Ó Murchú has correctly stated. I want time to think about this matter and I will come back to the House on it in the next few days.

Senator Alex White called for a debate on a report on third level education, which he previously requested. I have no difficulty in requesting the new Minister for Education and Science to come to the House to update us on the challenges facing education. As we all know 4% of the population pay 50% of taxes and 37% of those who work do not pay any tax. There is a serious challenge in this respect and I fully agree with the challenges facing education. I have no difficulty in arranging for a debate on this matter.

Senator Buttimer, Boyle, Donohoe, Quinn, MacSharry, Norris, Walsh, Callely, Ormonde, Ó Murchú, McCarthy and Hanafin expressed their serious concerns and views regarding the GRA annual conference, the statement which its president was to have read and the situation in which the organisation now finds itself. As was said, the Garda Síochána is made up of men and women who have served with distinction. We in both Houses of the Oireachtas have introduced in legislation since the foundation of the State to protect and assist in every way possible this great organisation. I hope that wisdom will prevail today and I wish the organisation well in its conference. I would like to review the situation tomorrow when we will see what will have taken place today. I have no difficulty in arranging for a debate on this matter at the appropriate time.

Senator Callely called for a debate on the HSE and welcomed the announcement yesterday of the putting place of a liaison officer for the 32 survivors of thalidomide. I gave the Senator a commitment on yesterday's Order of Business that I will arrange for a debate on the HSE.

Senator Ellis outlined his experience of the existence of a 30% price differential between the price paid to primary producers for their products and the price at which those products are sold in retail stores. As I said on yesterday's Order of Business, we should have an all-day debate on agriculture and food in general. This aspect could be included in such a debate.

Senator McFadden outlined a constituency matter concerning a serious challenge facing a nursery owner in our constituency. This matter could be discussed during Private Members' time. However, I will find out the details of the matter from the Senator following the Order of Business and see what we both can do to make representations to the Minister for Agriculture, Fisheries and Food on behalf of our constituent.

Senators Coffey, Buttimer and Callely called for a debate on youth unemployment and the role of FÁS. I intend to arrange for a debate on this matter at which the Ministers for Enterprise, Trade and Employment and Education and Science, who are responsible, would be in attendance. This is an urgent matter. This issue is a serious challenge for us all and our young people must be given the wherewithal in terms of upskilling and training to see what can be done to provide for them. FÁS has a huge budget and we want to have an input into a debate, with the two new Ministers in attendance, to bring us up to date on the position and to enable us to give them the benefit of our experience in terms of how that budget should be spent to ensure people will be trained to take up employment when there is a growth in a few years' time.

Senator MacSharry called for a debate again on matters pertaining to credit unions and he outlined his experiences and what was said at the annual conference of the Irish League of Credit Unions. I have no difficulty in arranging for such a debate.

Senator Jim Walsh called for a debate on the system of judicial review and the matter of the protection of society. As I said on yesterday's Order of Business, we should have a lengthy debate on this issue.

Senator Ó Murchú called for a debate on the media, to which I acceded yesterday, on developments in the media and what should be the role of the media in a democracy. I intend to have a debate on this matter at the earliest time possible.

**An Cathaoirleach:** Senator O'Toole has proposed an amendment to the Order of Business: "That a debate on the issue of the profession of politics be taken before No. 1." Is the amendment being pressed?

**Senator Joe O'Toole:** In light of the very positive response from the Leader I will not put this matter to a vote. I will raise it again next week, unless we come to some agreement in the meantime. I look forward to a debate on this matter and it should be very helpful.

Order of Business agreed to.

### **Inland Fisheries Bill 2009: Committee Stage.**

Sections 1 to 6, inclusive agreed to.

#### SECTION 7.

**Senator Liam Twomey:** I move amendment No. 1:

In page 15, subsection (4)(b), line 24, after "Minister" to insert the following:

"following consultation with the relevant all party Oireachtas Committee".

This is a fairly straightforward amendment, which should be accepted by the Minister. It broadens the democratic process in that a joint Oireachtas committee would have a say in what goes on.

**Minister of State at the Departments of Enterprise, Trade and Employment, Education and Science and Communications, Energy and Natural Resources (Deputy Conor Lenihan):** The purpose of the subsection to which the amendment refers is to oblige Inland Fisheries Ireland to establish and manage a national inland fisheries forum, the terms of reference of which would be subject to the agreement of the Minister. This forum is seen as a means of formalising interest group input into policy formulation and will act as a conduit to provide advice and inform policy deliberation on the conservation, protection and management of all inland fisheries species.

The Senator is seeking to have the terms of reference of this forum subject to consultation with the relevant joint Oireachtas committee. As previously stated, the establishment and management of this forum is primarily an operational matter for Inland Fisheries Ireland. Given the Department's corporate governance role over this body, the legislation makes provision for the terms of reference to be subject to the agreement of the Minister. It is neither appropriate nor necessary for the joint Oireachtas committee to be part of that process. The agreement of the Minister should be sufficient to ensure the terms of reference are fit for purpose. Any additional consultation requirements could unnecessarily delay or complicate the establishment of the forum.

[Deputy Conor Lenihan.]

I already gave an undertaking during the passage of the Bill in the other House to have the draft terms of reference for the forum circulated to members of the joint Oireachtas committee for their information. I expect the terms of reference will be circulated to members shortly.

There is nothing to prevent the joint Oireachtas committee making a submission to the Department or Inland Fisheries Ireland on the operation of the forum and I assure the House that any submission received will be given full and due consideration. It is not appropriate to legislate for consultation with the joint Oireachtas committee on what is an operational matter for Inland Fisheries Ireland. Accordingly, I cannot accept the amendment.

Amendment, by leave, withdrawn.

Section 7 agreed to.

Section 8 agreed to.

## SECTION 9.

**Senator Liam Twomey:** I move amendment No. 2:

In page 17, lines 29 to 44, to delete subsections (2) and (3).

Section 9(1) sets out how this will operate while section (2) basically states the Minister can change his mind in this regard. It is a rather unusual way for legislation to be enacted.

**Deputy Conor Lenihan:** While the legislation provides that Inland Fisheries Ireland must report and manage its business on the basis of river basin districts, one must be cognisant of the fact policy in this area is ever evolving. Consequently, there may be a time when it is not appropriate for the new body to manage its operations precisely on this particular basis.

Subsections (2) and (3) were included in the Bill to allow the Minister to amend, by order, this arrangement. Either House of the Oireachtas can annul an order made under this section within a 21 day period of it being laid before it. If we remove this provision, as suggested by the amendment, the only way any management and reporting arrangements can be amended in future would be by means of new primary legislation. This could be unnecessarily cumbersome if a minor adjustment for operational reasons were required. This is an important provision that needs to be retained in the legislation.

This particular provision was the subject of detailed debate during the passage of the Bill through the other House. Having taken the discussion on board, there is now provision in the Bill that the joint Oireachtas committee shall be consulted before any such order is made. This amendment to the Bill made by the other House addresses the concerns of the Senator and in the circumstances I am not inclined to accept his amendment.

It is important to reiterate that this came up in the other House. In the spirit of what the Senator suggested, I made the concession that should a Minister choose to change the operational mandate or area from it being other than a river basin district, one would notify the committee of that intention so members would be involved. Effectively, it means that if there were to be minor adjustments or changes to the river basin district, in other words if one were to decide to move part of one river basin district into another for purely operational reasons, one would not have to go back to the House with formal legislation as it would be done by way of an order. It is for administrative convenience. The other House addressed whether it would be open to a Minister to re-carve entirely the basis for the management of the inland

water resource. That is unlikely because a major move of that kind would require extensive consultation.

Amendment, by leave, withdrawn.

Section 9 agreed to.

Sections 10 and 11 agreed to.

## SECTION 12.

**Senator Michael McCarthy:** I move amendment No. 3:

In page 19, subsection (3)(b), line 4, after “persons” to insert “proposed to be”.

Under the Bill as it stands, the joint Oireachtas committee can only suggest three names. All the other board members are notified to the committee after they are appointed. This seems to be something of a *fait accompli*. We suggest that all the members are notified to the committee in advance. The committee can then nominate three members and comment on the remainder.

**Deputy Conor Lenihan:** The paragraph under discussion obliges the Minister to provide to the joint Oireachtas committee a statement indicating the relevant experience and expertise of persons appointed to the board of Inland Fisheries Ireland on the nomination of the Minister for the Environment, Heritage and Local Government, the Minister for Community, Equality and Gaeltacht Affairs and on the Minister’s own nomination. The purpose of this provision is to ensure the committee is fully informed as to the qualifications and experience of the persons appointed to the board so it can ensure in making its nominations that there is an appropriate balance of skill sets on the board.

It would appear the amendment proposed by the Senator would only serve to delay these appointments to the board. On Committee Stage in the other House, I advised of my intention to announce details of my appointees who will form the basis of an interim board pending establishment of IFI. Following consultation with the committee, I will provide the statement as set out in this section so that it will be fully informed in making its nominations.

I advise the House that this provision was amended during the Bill’s passage through the other House to ensure the joint Oireachtas committee can input into the statement to be provided by the Minister on his or her appointees. Accordingly, for the reasons outlined, I cannot accept the amendment.

Amendment, by leave, withdrawn.

Question proposed: “That section 12 stand part of the Bill.”

**Senator Jim Walsh:** This is a relatively new initiative. The first appointments by the joint Oireachtas committee were to the board of the Broadcasting Authority of Ireland and RTE. We are now considering appointments to the board of TG4. It is good the joint Oireachtas committee is involved in this. It is a slight departure and places an onus on members to ensure the process of selection is done in a way which enhances the contributions these people can make to the organisations to which they are being appointed. We should acknowledge that it is a good initiative.

Question put and agreed to.

Sections 13 to 16, inclusive, agreed to.

## SECTION 17.

**Senator Liam Twomey:** I move amendment No. 4:

In page 24, subsection (2), line 9, to delete paragraph (b).

The section states that a member of the board of Inland Fisheries Ireland shall cease to hold office, or is disqualified from office, if he or she makes an arrangement with creditors. That seems to be fairly harsh. Does that mean that if somebody is unable to pay his or her mortgage and his or her house is repossessed, he or she can no longer serve on the board of Inland Fisheries Ireland?

**Senator Jim Walsh:** This is an important point. While I am aware that exclusion from boards is virtually automatic in the case of persons who become bankrupt, subsection 2(b) rolls back the barrier considerably. In the current economic climate ordinary people have extended themselves, primarily due to poor banking practices, and now find themselves stretched. They may, therefore, have to come to an arrangement with their bank or creditors. How will this provision apply to such persons? For instance, an agreement under which an individual arranges with a bank to pay interest only on a loan for two or three years, rather than meeting the capital and interest repayments, amounts to an arrangement with a creditor. It is not necessary to debar a person who reaches such an agreement from membership of a public body. Given that, under this provision, a person with an arrangement with a creditor is automatically disqualified from membership of the IFI, any such person will be compelled to resign from the body, which would be a matter of some embarrassment and consequence. I ask the Minister to examine this matter before Report Stage to ascertain whether that is the case. It appears to be the effect if one takes a literal interpretation of the text. I ask the Minister of State to clarify the matter.

**Senator Michael McCarthy:** I remind the Minister of State that we live in changed economic times. This provision may affect people who may well have met the criteria set out in this section in the past and are worthy of consideration for membership of the board. In light of the ever changing economic fortunes of the country and the unfortunate economic circumstances facing many individuals, the amendment should be accepted. Given the manner in which Members are losing income through pay cuts, pension and income levies and, more recently, foregoing their pensions, as someone stated this morning, by the time we leave the House some of will qualify for family income support. Even the Minister of State may fall into the bankrupt category before the term is out.

**Deputy Conor Lenihan:** Senators should excuse me for chuckling in response to Senator McCarthy's intervention.

This is a standard provision which applies in the case of the majority of appointees to State boards. Appointees to State organisations must be upstanding in all matters, including financial matters. If an individual is financially compromised, he or she could be open to undue influence. This provision is designed to protect the integrity of the board.

Following concerns voiced about this provision during the Committee Stage debate in the Other House, advice was sought as to the precise meaning of the term. As a number of Senators noted, when one coldly reads the legislation, the provision appears to be rather threatening. I am advised, however, that the phrase used is a technical term borrowed from the bankruptcy code. It refers to an arrangement made with creditors under the Bankruptcy Act 1988 or a composition made with creditors under the specific terms of the Act. The provision has a

specific meaning and cannot be construed as meaning all arrangements between a debtor and creditor, for instance, a renegotiation of the terms of a mortgage, the example cited by Senator Walsh. It is important that Members are satisfied that the phrase is specific to the Bankruptcy Act 1988 and does not have a wider meaning which encompasses people who have a stressed mortgage or business but have not been subject to the Bankruptcy Act.

I accept the concerns voiced in this and the Other House on this matter. I welcome the appointment of a specific group within the Government which is seeking to implement the measures set out in the Law Reform Commission report regarding the Bankruptcy Acts. I understand the group will seek to amend the Bankruptcy Act 1988. This will present an appropriate forum for further debate on this matter. At present, however, I regret I am unable to accept the proposed amendment.

I reassure Senators that the provision does not have the alarming meaning that any ordinary person would construe from a reading of it. I do not pretend to be wiser than any other Member. While the provision may appear alarming, it is specific to the Bankruptcy Act.

**Senator Liam Twomey:** The Minister of State's explanation shows that I have a poor understanding of the Bankruptcy Act as I still do not have the foggiest notion who is covered by the provision.

**Deputy Conor Lenihan:** Thankfully, it will not apply to us.

**Senator Liam Twomey:** I hope we will not have to give a broader opinion on it. According to the Minister of State, the provision will not apply to individuals who may have to renegotiate their mortgages but are not deemed to be bankrupt under the Bankruptcy Act.

**Deputy Conor Lenihan:** It applies only to people who are declaring for bankruptcy under the Act.

**Senator Jim Walsh:** I welcome the clarification provided by the Minister of State. As I, like Senator Twomey, have not read the Bankruptcy Act recently, I am not in a position to interpret it. Legislation should be drafted in the simplest and most understandable manner possible.

*12 o'clock* Perhaps the Minister will consider inserting a reference to the Bankruptcy Act to qualify the literal interpretation of the current wording. While I am not a lawyer and do not know whether such a step is legally necessary, as the Minister of State acknowledged, the current wording gave rise to concerns in both Houses. The use of phraseology that is not simply understood allows the legal profession to charge exorbitant fees.

Amendment, by leave, withdrawn.

Section 17 agreed to.

## SECTION 18.

**Senator Liam Twomey:** I move amendment No. 5:

In page 24, subsection (1), line 26, after "Minister" to insert " , with the approval of Dáil Éireann,".

The amendment proposes to improve accountability to the Oireachtas in respect of the legislation by providing that the Minister secure the approval of the Dáil or relevant Oireachtas committee before removing a member from the board. This will allow people to become aware of the reasons for the removal and improve accountability to the Oireachtas.

**Deputy Conor Lenihan:** Section 18(1) provides that the Minister may, in certain circumstances, remove all of the members of Inland Fisheries Ireland. The amendment proposes to have such a removal subject to the approval of the Oireachtas. The Minister is primarily responsible for the corporate governance of Inland Fisheries Ireland, including its board, and it must be open to him or her to decide to remove the entire board if the specified circumstances occur. It is not appropriate for this provision to be subject to prior Oireachtas approval as the criteria under which this action can be taken are very specific.

Following the Committee Stage debate on this section in the Other House, I agreed to include a provision whereby the Minister will provide the joint Oireachtas committee with an appropriate statement indicating the circumstances of removal of all members under this provision. The Senator will note that this provision has been included at subsection (2). I trust the amendments made to the Bill will alleviate the Senator's concern in this matter. He will understand that, in the circumstances, I cannot accept the proposed amendment.

In short, I amended this provision in the other House by introducing a specific requirement on the Minister, should he take the rather extreme step of removing the board, to engage in a formal notification process to the Oireachtas committee. This requirement was not provided for in the legislation as originally drafted and moves some way in the direction sought by the Senator.

The Senator's party is riding high in the opinion polls and he may be in a ministerial position in future. In such circumstances, he would understand that the executive authority for removal must lie with the Minister. Clearly, the idea of a statement in the event of such an extreme form of removal occurring would, of necessity, involve the Oireachtas in intense debate as to the reasons for such a ministerial decision.

**Senator Liam Twomey:** Notwithstanding the Minister of State's positive aspirations for my future, legislation should improve accountability to the Oireachtas, rather than increasing the powers of the Executive. Since the foundation of the State, the Executive has wielded all power. Even if the Fine Gael Party is in power following the next general election, we would like powers over legislation and its implementation to be shared between the Oireachtas and Executive. We should give the Oireachtas greater responsibility for legislation.

**Deputy Conor Lenihan:** My well publicised private views on this matter are in accordance with those expressed by the Senator. The authority of the Executive has been strengthened to an excessive degree in our system. My personal view is that the only way to resolve the matter is to strengthen Parliament by having an Executive Presidency, which system is probably more accountable than ours. I do not want to bore the Senator, but I agree with him in his view that the Executive has accumulated almost too much power in our system.

Amendment, by leave, withdrawn.

Section 18 agreed to.

Sections 19 to 28, inclusive, agreed to.

#### SECTION 29.

**Senator Michael McCarthy:** I move amendment No. 6:

In page 32, lines 19 to 22, to delete subsection (9).

Under this amendment the gag on the chief executive would be removed.

**Deputy Conor Lenihan:** This is a standard legislative provision which appears in many other enactments and applies in general to State bodies. It is also one that is frequently the subject of debate when enacting legislation. The purpose of the subsection is to separate the position of chief executive when appearing before an Oireachtas committee. At the end of the day, it is the Minister who is responsible for policy and politically responsible to the Oireachtas. The chief executive has a means of influencing policy within the Department and I am satisfied that the mechanisms available are sufficiently robust. It is the function of the Opposition to scrutinise and criticise Government policy. The chief executive deserves protection from Opposition Deputies and Senators when he or she appears before them.

The subsection does not preclude the chief executive from discussing matters of public interest. The chief executive is employed by a public body and obliged to work within its structures. It would not be a good policy for a chief executive of a State organisation to be able to criticise Government policy when appearing before an Oireachtas committee. This provision reflects existing practice under legislation and I am not willing to exempt the chief executive of Inland Fisheries Ireland from this exclusion. Accordingly, I cannot accept the amendment.

There was a detailed discussion on the issue at the committee. A chief executive who has such deep-seated difficulties with Government policy has a number of options, including resignation or robustly raising the matter internally with the Minister. It would not be helpful if a chief executive could depart from that reporting line, through the Executive and Parliament. It is possible for a chief executive who is getting nowhere but who does not wish to resign to informally enlighten Opposition Members of how his or her concerns are not being met. We know this has occurred frequently during the years when Opposition Members were very well informed of what was going on in some bodies. That is proper and sufficiently robust.

Amendment, by leave, withdrawn.

Section 29 agreed to.

Sections 30 to 34, inclusive, agreed to.

#### SECTION 35.

Question proposed: "That section 35 stand part of the Bill."

**Senator Jim Walsh:** I welcome this section which deals with standards of integrity and places a statutory obligation on the employees and chief executive of the company. There is a lacuna in much of our legislation in this area. There is a need to place a statutory obligation on the CEO of and other senior managers in the IFI or similar companies to adhere to good corporate governance practice, especially in financial and general management matters to ensure value for money is achieved for the taxpayer. I have been told before that this is understood, but it is not. It was not understood by the chief executive of FÁS that there was this obligation on him. If there was such a statutory obligation and it was flagrantly breached by somebody, the Government would be in a position to dispense with the services of that individual without additional compensation. We have seen such examples which have brought the administration of public services into disrepute. People were paid huge sums of money on termination of their employment, especially where they had demonstrably failed to carry out their duties in a reasonable manner that would have been expected by any employer availing of their services.

I welcome the provision on integrity, but the commercial requirements of ensuring value for money for the taxpayer and complying with and operating to the best standards of corporate governance mean wastefulness and profligacy in a public company should constitute grounds

[Senator Jim Walsh.]

for dismissal. That would place an onus on persons in senior public positions to use the resources of the company in a way that would stand up to scrutiny. Given recent serious failures, we should be looking to insert this in as a provision. While I welcome the provision on integrity, we need to go beyond it a little.

**Deputy Conor Lenihan:** There is a reference in the Bill to an obligation on the chief executive to exercise his or her role in respect of the “economy and efficiency” of the IFI. These words are more old fashioned than the phrase “value for money” that has recently been more popular. The integrity of public bodies and institutions such as the Houses is very much guided by the culture of the organisation concerned; therefore, it is possible to prescribe these matters in legislation. In regard to the Enron scandal, highly educated individuals managed to run a coach and four through the rules precisely because there was overprescription in guidelines to a point where intelligent people were motivated to find loopholes in them. Much depends on the culture of and the leadership shown in an organisation.

Question put and agreed to.

Sections 36 to 39, inclusive, agreed to.

#### SECTION 40.

**Senator Liam Twomey:** I move amendment No. 7:

In page 39, subsection (1), lines 3 and 4, to delete paragraph (a).

Section 40 states, *inter alia*, that where a member of the IFI, a member of a committee of the IFI or the chief executive is nominated as a candidate for election to either House of the Oireachtas or the European Parliament, thereon he or she should cease to hold office. That is unusual because it relates to someone who is not a Member of either House or the European Parliament but who is seeking a nomination to become a Member and who must then resign his or her position, regardless of the outcome of the election. That is a little harsh for a member of the board. It might be acceptable where he or she managed to be elected, as he or she would have other extensive duties to perform.

The section also states the person concerned must resign if he or she becomes a member of a local authority. What is wrong with county councillors that they are considered to pose such a threat to the IFI? I would like to hear the Minister of State’s explanation as to why such an individual would pose such a danger to the integrity and the corporate governance of the IFI that he or she could no longer hold office.

**Senator Jim Walsh:** I concur with some of Senator Twomey’s comments. This House has often debated the issue of the automatic exclusion of people involved in local government. Councillors represent a wide spectrum of society and have diverse expertise. Some of them have served with great distinction in the fisheries sector and many other bodies. This automatic, blanket exclusion of councillors from participation at board level is highly discriminatory. I can understand why Members of the Oireachtas are excluded because they are involved in policy-making; therefore, there is a clear distinction, but that does not apply to councillors. That is not to say, however, that I wish to interfere in any way with the principle of ministerial discretion in the appointment of board members. The Minister will continue to retain discretion. It is open, therefore, to the Minister to decide whether somebody is suitable and who the best people are to serve on these boards. That would not be in any way affected by the removal of paragraph (e) which relates to local authority members. I strongly urge the Minister to take this on board.

If he could do so, the House would be grateful. Some Ministers have acceded to this reasonable argument which has been made here. It is generally the unanimous position of the House. Other Ministers have not been so amenable. It would be a pity if this provision was allowed to remain in the Bill simply because somebody thinks it is generally a good idea. I, therefore, ask the Minister of State to consider the amendment favourably, particularly as it applies to the membership of local authorities.

**Senator Michael McCarthy:** I support the amendment and the points made by Senators Walsh and Twomey. In recent years we have seen the role of councillors being reduced and their powers consequently being limited. For many years they fought with successive Governments to achieve their current level of remuneration. Councillors' organisations eventually succeeded in having the facilities for and resources available to local authority members improved. We must be mindful that, as a result of the economic cutbacks, the political classes have suffered the most in losing resources and facilities.

We are not suggesting all 850 councillors should suddenly be appointed to State boards because that would never be the case. However, some of them, in some parts of the country, could be appointed from time to time. We should not restrict the areas of activity in which they could become involved. They might well bring expertise to various boards, which they bring to their respective local authorities. From the smallest town councils to the largest city and county councils, local authorities constitute a fundamental unit of democracy. Councillors are elected on merit by voters to serve and lead their communities, as well as to make decisions on their behalf. This would be an automatic extension of that franchise.

**Deputy Conor Lenihan:** I have been greatly impressed by the arguments advanced on this matter by Senator Walsh. Overnight I decided to accept the amendment concerning local authority members. In other words, I agree that it is highly discriminatory to impose a ban on local authority members being members of this particular board. If someone is suitably qualified to perform a function and happens to be a member of a local authority, he or she should not be excluded from membership of this board. Because of the submissions and statements made by Senators Twomey and McCarthy, I am accepting the amendment, even though it would suit me and my officials better to have the Bill passed today. Nonetheless, we will go back to the Dáil. We will delete paragraph (e) of section 40(1).

I am not so minded to change other paragraphs referring to the nomination of a person as a candidate for election to the Dáil or the European Parliament, however successful or unsuccessful they may prove to be. There is a genuine reason persons who are highly politicised and contesting an election for membership of the Oireachtas or the European Parliament should not be on the board. It is discriminatory, however, to prohibit a suitably qualified local authority member from serving. In deference to the Senators' views, therefore, I am changing that part of the legislation.

**Senator Liam Twomey:** As I suppose everything in politics is about compromise, we will have to agree with the Minister of State. I will, therefore, withdraw my amendment. I am glad the Minister of State has taken on board the fact that there is no need to discriminate against those who are elected to a local authority. I can see why the insertion of such a provision can be irritating to those elected as county councillors. As a profession, politics has been subject to a fair degree of scrutiny and negative commentary recently. In some respects, inserting such a provision in the legislation almost confirms the argument that there is something wrong with entering political life. I am glad, therefore, that the Minister of State proposes to delete paragraph (e) which might start the rehabilitation process for all politicians in society. There is a need to have a serious debate on the role of politics because all politicians are coming under

[Senator Liam Twomey.]

sustained attack, although much of it is unreasonable and unbalanced. We should avoid inserting such a provision in legislation, as it only confirms the negative ideas often cited against politicians.

**An Leas-Chathaoirleach:** On a point of clarification, did Senator Twomey say he was withdrawing his amendment? There is no Government amendment in this regard. As I understand it, the Minister of State is accepting amendment No. 8.

**Senator Liam Twomey:** Two amendments are being discussed together. Amendment No. 7 proposes the deletion of paragraph (a), while amendment No. 8 proposes the deletion of paragraph (e). I will not push for the deletion of paragraph (a), but I will accept the deletion of paragraph (e).

**Senator Jim Walsh:** I am sure everyone in the House will thank the Minister of State for his decision. I thank him personally because, as he mentioned, I had a long conversation with him last night on the issue. At the time he was aware it posed a certain difficulty in that the Bill must now be returned to the Dáil. It is a measure of his responsiveness to reasonable suggestions that he was prepared to accept that inconvenience in order to amend the measure. There will be a consequential amendment to another section. Section 40(4) deals with someone becoming a member of a local authority, but I hope the Minister of State will bring forward an amendment on Report Stage to section 44. I thank him on behalf of the many people involved in local government, hundreds of whom give of their time more or less on a voluntary basis and often at great cost to themselves and their families. They will regard this as a recognition of their position and the work they do. I applaud the Minister of State for taking that aspect fully on board.

**Senator Michael McCarthy:** I thank the Minister of State for having listened to the points of view expressed here. He has demonstrated flexibility in dealing with the legislation. We have always said we are here to initiate, amend, pass and enact legislation. This is a fine example of the effectiveness of Seanad Éireann, including the connection we still have with local government, despite the abolition of the dual mandate. We still have the best interests of elected public servants at heart. I sincerely thank the Minister of State for his willingness to accept the amendment.

**Deputy Conor Lenihan:** As there will be a consequential amendment to section 44 on Report Stage, I will revert to the House at that stage. I acknowledge the contribution of the Tánaiste, Deputy Coughlan, who was very firm on the matter when I spoke to her earlier today. She has constituted the new FÁS board on the basis that there cannot be an exclusion of a member of a local authority. I was guided by her advice on the matter also. I thank Senators for their kind words.

**Senator Liam Twomey:** As the Minister of State mentioned the FÁS board, it is interesting that Councillor Tony Dempsey from County Wexford was placed on that board. Having had a long experience of Councillor Dempsey, both locally and nationally, he will be a great addition to the board.

**Senator Jim Walsh:** I concur with those comments.

**An Leas-Chathaoirleach:** Is Senator Twomey withdrawing amendment No. 7?

**Senator Liam Twomey:** Yes.

Amendment, by leave, withdrawn.

**Senator Liam Twomey:** I move amendment No. 8:

In page 39, subsection (1), line 11, to delete paragraph (e).

This amendment is being accepted by the Minister of State.

**An Leas-Chathaoirleach:** Is the amendment being accepted?

**Deputy Conor Lenihan:** Yes.

Amendment agreed to.

Section 40, as amended, agreed to.

Sections 41 to 56, inclusive, agreed to.

#### SECTION 57.

**Senator Michael McCarthy:** I move amendment No. 9:

In page 48, subsection (5)(b)(ii), line 9, to delete “(if any)”.

In this amendment, the words “if any” mean that Inland Fisheries Ireland is at liberty not to maintain a website. There should be a clear obligation on it to have a website and to publish the by-laws on it. On Committee Stage in the Dáil, the Minister stated the amendment would cause difficulties and one could not compel a body to have a website. However, that is incorrect because other legislation enacted by both Houses do that. For example, the Petroleum (Exploration and Extraction) Safety Bill refers to publication on a website, as does a number of other pieces of legislation. I hope the Minister of State is still flexible and that he will accept this amendment.

**Deputy Conor Lenihan:** This amendment relates to the publication of any by-laws made under section 54 of the Bill on the website of Inland Fisheries Ireland. The Senator seeks to have the term “if any” removed from the provision. I have consulted the Office of the Parliamentary Counsel and am advised that this provision should not be amended. The inclusion of the phrase “if any” offers protection to Inland Fisheries Ireland in case of any unforeseen difficulties with its web page. Furthermore, I am advised that by removing the provision, there is a real risk that potential prosecutions could be prejudiced. A defendant could use the fact that he or she was unable to access a by-law on the website of Inland Fisheries Ireland to thwart a prosecution for breach of the by-law. Accordingly, I am unable to accept the amendment.

**Senator Michael McCarthy:** I thank the Minister of State for his response and will withdraw the amendment. However, on a general legislative basis, this is an amendment we could put forward for other legislation and I would like to see it accepted in the interest of conformity and consistency.

Amendment, by leave, withdrawn.

Sections 57 to 67, inclusive, agreed to.

## SECTION 68.

**Senator Liam Twomey:** I move amendment No. 10:

In page 59, subsection (1), line 16, after “Finance” to insert “and the approval of Dáil Éireann”.

The Minister has included a new subsection (3) here, which may be to cater for the fact that he wants the approval of Dáil Éireann for the sale of any property by IFI. The new subsection states: “The Minister shall, as soon as practicable, notify the Joint Oireachtas Committee of the details of any sale completed in accordance with *subsection (1)*.” Would it be possible to alter this so the Oireachtas committee could be informed before the sale is completed, not in order to allow the committee alter the sale agreement, but to allow it express any concerns and influence the sale? It should not be a *fait accompli* where the Oireachtas committee has no real say because the sale has been completed.

**Deputy Conor Lenihan:** This amendment concerns section 65 of the Bill, which is a restatement of section 45 of the Fisheries Act 1980. It allows the Minister, with the consent of the Minister for Finance, to sell certain fisheries, fishing rights and businesses vested in him or her. Senators O’Reilly and Twomey seek to have any such sale subject to the approval of Dáil Éireann. Such a restriction is not applied to other agencies or Ministers and I do not feel it is necessary in this instance, particularly as the provision is safeguarded by requiring the approval of the Minister for Finance. Nevertheless, having taken on board the point made following the debate on this section in the House, the Bill includes a provision whereby the Minister will notify the joint Oireachtas committee of the details of any sale completed under this section. I trust Senator Twomey will understand that in light of the amendments already made to this section, I am unable to accept the proposed amendment.

I remind the Senator — I know this from my late father’s experience in returning the famous weir in Galway into Irish owned hands — that often opportunities for a quick purchase or sale arise in unique circumstances and a Minister must have the flexibility to execute the sale in a timely fashion, before the mood of the seller changes and it cannot be done.

Amendment, by leave, withdrawn.

Sections 68 to 83, inclusive, agreed to.

Schedules 1 to 6, inclusive, agreed to.

Title agreed to.

Bill reported with amendment.

**An Leas-Chathaoirleach:** When is it proposed to take Report Stage?

**Senator Jim Walsh:** Report Stage will be tomorrow, because of the need for the Government to bring forward a consequential amendment. I thank the Minister of State for accepting the amendment. I know its acceptance is inconvenient for him, but we are grateful to him for accepting it. Hopefully, Report Stage can be rescheduled for tomorrow morning.

**An Leas-Chathaoirleach:** Is that agreed? Agreed.

Report Stage ordered for Thursday, 29 April 2010.

*Sitting suspended at 12.30 p.m. and resumed at 3 p.m.*

**Fines Bill 2009: Committee Stage.**

## SECTION 1.

**Senator Ivana Bacik:** Before coming to amendment No. 1, I wish to have a matter clarified. The schedule we were given refers to “Committee and Remaining Stages”. I believe we are only taking Committee Stage today.

**An Cathaoirleach:** That was agreed to on the Order of Business. We are taking Committee Stage first, after which the House will make the decision. The question will be put as to when the next Stage will be taken. It was scheduled to take Committee and Remaining Stages.

**Senator Ivana Bacik:** I was present for the Order of Business but do not recall that happening.

**An Cathaoirleach:** We are taking Committee Stage first.

**Senator Ivana Bacik:** I move amendment No. 1:

In page 3, subsection (2), line 29, after “provisions” to insert the following:

“, provided that *Part 2* shall come into operation in its entirety on a specified day”.

There is something of a contradiction in giving the Minister power in section 1(2) to commence the Bill in an open-ended fashion and to commence different sections at different times. However, the definition of “commencement date” in section 2 presupposes all of Part 2 will be commenced on a specified single date. This drafting amendment seeks to remove the contradiction between section 1(2) and section 2.

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** The amendment seeks to ensure all of Part 2 relating to the increase in the value of fines would come into operation on the same day. The drafters’ views have been sought on the amendment on more than one occasion. It is the intention that all of Part 2 will come into operation on the same day. It would be impossible to bring Part 2 into operation in bits and pieces, as the provisions are largely independent. It is a basic concept of good drafting that nothing should be included in a Bill that is not necessary or that will not improve it. The amendment satisfies neither condition. Part 2 will commence as soon as I am satisfied that the courts are ready to implement the indexation provisions. We do not believe the amendment is necessary.

Amendment, by leave, withdrawn.

Section 1 agreed to.

Section 2 agreed to.

## SECTION 3.

**An Cathaoirleach:** Amendments Nos. 2 and 8 are related and may be discussed together.

**Senator Ivana Bacik:** I move amendment No. 2:

In page 4, between lines 19 and 20, to insert the following:

“ “maximum fine”, in respect of a specified amount or within a specified range, includes a fixed fine of that amount or within that range.”.

[Senator Ivana Bacik.]

As the expression “maximum fine” is used in other places, for example, in section 8, an ambiguity arises as to whether this means a particular maximum or whether it also includes fixed fines, in respect of which there is no discretion. This is a drafting amendment which seeks to remove that doubt.

Amendment No. 8 is also a drafting amendment that seeks to deal with statutory provisions that impose a specific fine rather than a maximum fine. Older statutes provide for a classified or fixed fine rather than “a fine not exceeding an amount”, which is the language used in the existing section 4(2). The amendment would cater for fixed as well as maximum fines.

**Deputy Dermot Ahern:** In practical terms, amendment No. 2 seeks to define the expression “maximum fine” for the purposes of the use of that expression in section 9 which provides for the increase in the amount of certain fines on conviction on indictment. The amendment seeks to include in the meaning of “maximum fine” a fixed fine, in effect, to unfix it. Fixed fines are usually found in respect of revenue offences. For example, section 65(1) of the Finance Act 2008 provides for the offence of contravening or failing to comply with provisions concerning electricity taxes. Without prejudice to any other penalty to which a person may be liable, conviction carries a penalty of €5,000. Another example is to be found in section 55(6)(a) of the Finance (No. 2) Act 2008, dealing with the offence of failing to comply with an air travel tax. Again, the fixed financial penalty is €5,000. Fines are fixed for a reason. The fact that they are fixed implies that the sponsoring Department wishes to provide for an unchanging level of penalty as a response to particular types of offence. It would not be appropriate to provide that such penalties should be raised automatically with other fines. Fixed fines are usually found in respect of revenue offences. As there is an opportunity for the sponsoring Department to review these fines annually in the preparation of the Finance Bill, there is little chance of them falling out of date.

Amendment No. 8 seeks to deal with fixed fines that can be imposed in the District Court. For the reasons I have outlined for fines imposed on indictment, I have decided that, on balance, it would not be prudent to include such fines in the indexing provisions. Following consultation with the drafter of the Bill, it was decided it would not be appropriate to include fixed fines in an indexing provision.

Amendment, by leave, withdrawn.

**Ivana Bacik:** I move amendment No. 3:

In page 4, between lines 19 and 20, to insert the following subsection:

“(2) The Minister for Justice, Equality and Law Reform may, by order, vary the amounts of money specified in *subsection (1)* from time to time having regard to changes in the value of money since the commencement date.”.

This provides that the Minister may by order vary the amounts of money specified in subsection (1) from time to time, having regard to changes to the value of money since the commencement date. This is to ensure the amounts of fines specified in the Bill can be varied by order so the Bill does not become out of date.

**Deputy Dermot Ahern:** We have some sympathy for this amendment but, on legal advice, the Attorney General’s office has stated the safer option is to do this by primary legislation rather than by secondary legislation. He errs, and we also now err, on the side of caution following some of the court decisions about the over-use of secondary legislation by the

Oireachtas. I ask the Deputy not to press the amendment for that reason: it is better for us to do this by primary legislation.

**Senator Ivana Bacik:** I accept the Minister's point, it is better to err on the side of caution but most of these amendments are technical in nature and are being offered in a constructive spirit to strengthen the Bill. As I said on Second Stage, we welcome the Bill. The Irish Penal Reform Trust has also welcomed it. Any measure that reduces the number of people imprisoned for non-payment of fines must be welcomed. We are trying to improve the Bill but I take the Minister's point.

Amendment, by leave, withdrawn.

Section 3 agreed to.

#### SECTION 4.

**An Cathaoirleach:** Amendments Nos. 4 and 26 to 28, inclusive, are related and may be discussed together by agreement.

**Senator Ivana Bacik:** I move amendment No. 4:

In page 4, subsection (1), line 20, after "enactment" to insert "amended by this Act or".

The first amendment is a drafting amendment to facilitate the interpretation of the legislation amended by section 9 of the Bill so in future legislation will use the simple expression "class A fine" rather than the more unwieldy expression "class A fine within the meaning of this Part". It tries to improve upon the terminology that will be used in future when people are referring to the classes of fines created by the Bill.

The later amendments relate to section 10 of the Bill and again try to use a less long-winded formula when referring to classes of fines.

**Deputy Dermot Ahern:** I indicated on Report Stage in the Dáil that we would look again at this issue and the drafting counsel was satisfied with the existing wording, saying it is a matter of drafting technique. The purpose of including the first of the amendments in this group would obviate the need for the inclusion of the phrase "within the meaning of *Part 2* of the *Fines Act 2010*" in the other three. It is a drafting technique I prefer for the substance and style of the existing draft.

**Senator Ivana Bacik:** I am grateful to the Minister that he considered the matter and consulted the drafting counsel on this. As a matter of general principle, it is preferable to have more accessible and concise language in criminal legislation. There is a huge amount of unwieldy language and an unnecessary number of different Acts on the Statute Book. A consolidation project is underway but here we are trying to contribute to making the language of criminal law and legislation more accessible and understandable. It is a pity that a matter of drafting technique should prevent us from using shorter terms. Perhaps the Minister will take the general point on board.

Amendment, by leave, withdrawn.

**An Cathaoirleach:** Amendment No. 5 is a Government amendment that has also been tabled by the Labour Senators. Amendments Nos. 5, 10, 14, 18, and 22 are cognate and may be discussed together by agreement.

## Government amendment No. 5:

In page 4, subsection (1), line 20, to delete “after” and substitute “on or after”.

**Deputy Dermot Ahern:** The Government amendment and that of the Labour Party to section 4 is to ensure that a person who commits an offence under the Act enacted on the day on which this part of the Bill comes into operation will be liable on summary conviction to a class A fine. Similar amendments to sections 5, 6, 7 and 8 will ensure that in the same circumstances, a person will be liable to the other classes, B, C, D and E.

These amendments arise from an amendment tabled by the Labour Party in the Dáil and repeated here today. I accepted a number of amendments from that party in the Dáil and in the case of those I was not in a position to accept, I arranged further discussions with the drafter of the Bill in the light of the further points raised and these amendments fall into that category. I thank the Labour Party for bringing this to my attention and I am happy to introduce these amendments that deal with the situation.

**Senator Ivana Bacik:** I am grateful to the Minister for accepting and acknowledging the Labour Party amendments. We tabled amendment No. 5 and the same point is made in the other amendments. We were concerned that in the absence of these amendments there would be an anomaly in respect of offences committed under Acts on the commencement date. It is a technical amendment but I am grateful the Minister accepted it. It clarifies the legislation and makes it more effective.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 6, 11, 15, 19 and 23 are cognate and may be discussed together by agreement.

## Government amendment No. 6:

In page 4, subsection (1), lines 21 and 22, to delete “under the enactment” and substitute “under that or any other enactment”.

**Deputy Dermot Ahern:** These are technical amendments designed to ensure the indexing provisions will apply to any enactments enacted on or after the commencement date that amend other enactments. A new Act may substitute a provision into the existing Act that amends a penalty provision that can be imposed on summary conviction. These amendments will ensure the fine will fall into one of the classes provided for in sections 4 to 8.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 7, 9, 12, 13, 16, 17, 20, 21, 24 and 25 are cognate and may be discussed together by agreement.

## Government amendment No. 7:

In page 4, subsection (2), line 27, to delete “number in” and substitute “number specified in”.

**Deputy Dermot Ahern:** These are purely drafting amendments that for consistency in sections 4 to 8 insert the word “specified” after the word “number” in two places in subsections (2) and (3) of sections 4 to 8. For example, where it now states “Where an enactment enacted during a period specified in *column* (2) of the Table opposite, a particular reference number

in *column (1)*”, the revised wording will be “Where an enactment enacted during a period specified in *column (2)* of the Table opposite, a particular reference number specified in *column (1)*”. This is a drafting amendment that will help the Bill.

Amendment agreed to.

Amendment No. 8 not moved.

Government amendment No. 9:

In page 4, subsection (3)(a), line 41, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Section 4, as amended, agreed to.

#### SECTION 5.

Government amendment No. 10:

In page 5, subsection (1), line 26, to delete “after” and substitute “on or after”.

Amendment agreed to.

Government amendment No. 11:

In page 5, subsection (1), lines 27 and 28, to delete “under the enactment” and substitute “under that or any other enactment”.

Amendment agreed to.

Government amendment No. 12:

In page 5, subsection (2), line 33, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Government amendment No. 13:

In page 5, subsection (3)(a), line 47, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Section 5, as amended, agreed to.

#### SECTION 6.

Government amendment No. 14:

In page 6, subsection (1), line 26, to delete “after” and substitute “on or after”.

Amendment agreed to.

Government amendment No. 15:

In page 6, subsection (1), lines 27 and 28, to delete “under the enactment” and substitute “under that or any other enactment”.

Amendment agreed to.

Government amendment No. 16:

In page 6, subsection (2), line 33, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Government amendment No. 17:

In page 6, subsection (3)(a), line 47, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Section 6, as amended, agreed to.

#### SECTION 7.

Government amendment No. 18:

In page 7, subsection (1), line 26, to delete “after” and substitute “on or after”.

Amendment agreed to.

Government amendment No. 19:

In page 7, subsection (1), lines 27 and 28, to delete “under the enactment” and substitute “under that or any other enactment”.

Amendment agreed to.

Government amendment No. 20:

In page 7, subsection (2), line 33, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Government amendment No. 21:

In page 7, subsection (3)(a), line 47, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Section 7, as amended, agreed to.

#### SECTION 8.

Government amendment No. 22:

In page 8, subsection (1), line 26, to delete “after” and substitute “on or after”.

Amendment agreed to.

Government amendment No. 23:

In page 8, subsection (1), lines 27 and 28, to delete “under the enactment” and substitute “under that or any other enactment”.

Amendment agreed to.

Government amendment No. 24:

In page 8, subsection (2), line 33, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Government amendment No. 25:

In page 8, subsection (3)(a), line 47, to delete “number in” and substitute “number specified in”.

Amendment agreed to.

Section 8, as amended, agreed to.

Section 9 agreed to.

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

Section 10 agreed to.

## SECTION 11.

Government amendment No. 29:

In page 10, subsection (1), lines 23 and 24, to delete “Minister for Justice, Equality and Law Reform” and substitute “Minister”.

**Deputy Dermot Ahern:** This is just a drafting amendment that speaks for itself.

Amendment agreed to.

**Senator Eugene Regan:** I move amendment No. 30:

In page 10, subsection (1), lines 26 to 32, to delete all words from and including “or for securing” in line 26 down to and including “operation” in line 32.

On Second Stage I mentioned the issue of delegated legislation. The Minister has said, regarding the amendment proposed by Senator Bacik for section 4, that he has concerns about overuse of delegated legislation. The same issue applies here. While the Minister should be able to introduce regulations to implement details of this legislation because the principles have been set out, I am concerned about this provision and the precedent that any such regulations might modify any provision of this part of the Bill which continues: “in so far as may be necessary or expedient”. That provision might be in many Bills. It means the Minister can amend the primary legislation.

[Senator Eugene Regan.]

When we implement and transpose EU directives, we are able to do so by regulation because of their volume. However, when the legislation is of this type, it is unwise to have this type of provision whereby regulations or statutory instruments can amend primary legislation. This is a bad precedent if only for the sake of having transparency and clarity in the legislation.

When I raised this matter on Second Stage there was a response to the effect that there had been a precedent in another Act. I suggest that this precedent may have been unfortunate and should not be followed here. I ask the Minister to consider this amendment which I do not believe can be classified as merely a technical amendment. It is the principle that concerns me, however, namely, that we would be able to change primary legislation by a statutory instrument.

The matter is referred to in the Oireachtas Library and Research Service Bills digest in respect of the Fines Bill. Reference is made to the Supreme Court case, *Cooke v. Walsh*. There are other precedents in regard to this matter but specific reference was made in the Library research to the effect that this is something that has been frowned upon by the Supreme Court.

I ask the Minister to consider my amendment. It does not contradict another amendment tabled by Senator Bacik in which the Minister is asked to make regulations to provide for a centralised system of data collection and retention on sentences. That is a most worthwhile and important proposal but such a proposal does not amend the Act. It is on the principle of having clarity in the law and because of an unwelcome precedent that I put the amendment to the Minister.

**Senator Ivana Bacik:** I support Senator Regan's points. In the context of what the Minister said about the caution with which the Attorney General approached the issue of primary versus secondary legislation, it is interesting it was thought better, for example, to make changes to the value of money in the Bill through primary rather than secondary legislation. In my earlier response to the Minister on amendment No. 3 I acknowledged this was probably a cautious and wise approach to take, but I believe Senator Regan's proposed amendment is in keeping with the caution to which the Attorney General adheres. Senator Regan suggests that the provisions in section 11(1) currently give the Minister too much power to make changes through regulation. I am grateful to the Senator for his point about my amendment to section 11. It is somewhat different in that it simply provides that the Minister will have power to ensure there is a centralised statistical system of gathering into place sentencing data. It is different from the notion that the Minister can change aspects of the legislation through regulation and, therefore, I support Senator Regan's amendment.

**Deputy Dermot Ahern:** I have some sympathy with the argument on the use of secondary legislation. However, the Supreme Court primarily found fault with the making of legislation, as such, by means of secondary legislation because in some Departments there was a practice whereby Acts were changed by secondary legislation rather than by having to go through the rigours of primary legislation.

This legislation itself is ground-breaking and fairly complicated, especially in regard to the change from punts, or Irish pounds, into euro, as witnessed by the fact that we are going back as far as 1914 in respect of the indexing or upgrading of fines. There may be mistakes or difficulties that will occur in the initial stages of the legislation but we are being careful in that there is a three-year limit to how it will operate.

Senator Regan is right concerning the last dealing of this. We gave the example that it was not a unique or once-off provision but has been used in other legislation, primarily in section 5 of the British-Irish Agreement of 1999 which stated that if within three years of the coming

into operation of Part II any difficulty were to arise in bringing a provision into operation or concerning the operation of such provision, the Minister may propose regulations that may remove these difficulties so the provision might be brought into operation.

The words the amendment seeks to delete would also allow the regulations to modify any provision to facilitate its coming into effect. The word “modify” is not defined but the ordinary dictionary definition means to moderate, meaning to keep within measure or bounds. It most certainly does not mean to change substantially, which is something the courts would not allow. It is simply facilitating the coming into effect of what is already legislation.

I can understand the reluctance with regard to secondary legislation but this is genuinely made to cater for a position if an anomaly arises in the implementation of this legislation. It could be dealt with easily rather than having to come back for primary legislation. It is not endeavouring to change legislation dramatically.

**Senator Eugene Regan:** That is the language. The Bill states “such regulations may modify any provision of this Part” so the legislation adopted in the Oireachtas could be changed. My concern, given the precedent referred to of the British-Irish Agreement Act 1999, is that we will have another precedent and it will become a standard practice whereby primary legislation can be amended by ministerial order. That is undesirable and should not be sanctioned.

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

Question put.

The Seanad divided: Tá, 26; Níl, 20.

Tá

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Carty, John.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
Ellis, John.  
Glynn, Camillus.  
Hanafin, John.  
MacSharry, Marc.

Mooney, Paschal.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O’Brien, Francis.  
O’Donovan, Denis.  
O’Malley, Fiona.  
O’Sullivan, Ned.  
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.  
Donohoe, Paschal.  
Healy Eames, Fidelma.

McCarthy, Michael.  
McFadden, Nicky.  
Norris, David.  
O’Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.  
Ryan, Brendan.  
Twomey, Liam.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Maurice Cummins and Eugene Regan.

Question declared carried

Amendment declared lost.

**Senator Eugene Regan:** I move amendment No. 31:

In page 10, lines 33 to 36, to delete subsection (2).

In a way, this amendment goes with the previous amendment because——

*(Interruptions).*

**An Cathaoirleach:** Please, Senator Regan wishes to contribute on the Bill.

**Senator Eugene Regan:** Had the previous amendment been accepted, one would not have needed this provision, so they stand or fall together. I will not press the amendment, but I put it to the Minister that a reformulation of the term “modify any provision” could be considered for Report Stage. Some language could surmount the problem without necessarily deleting everything, but I will leave the matter with the Minister. I will not press this amendment as it goes with the previous amendment.

**Senator Ivana Bacik:** I will add to Senator Regan’s comments. Given the wording of section 11 as a whole, a difficulty arises with the use of the word “modify” in subsection (1). I accept Senator Regan’s statement to the effect that his amendment No. 31 is closely linked with amendment No. 30. In respect of the provision generally, however, the Minister has given different legislation as a precedent for the formula, in particular the use of the word “modify”, namely, the British-Irish Agreement Act 1999. Clearly, it is not a criminal statute whereas the Fines Bill would be. In this instance, the Attorney General would probably urge caution in the use of any powers to provide for principles through secondary legislation, as doing so would be problematic. The phrase “modify any provision of this Part” in section 11(1) is problematic. Replacing it with the term “give effect to any provision of this Part” or “clarify any provision of this Part” might be preferable. Will the Minister consider this suggestion? Section 11(1) would not seem as problematic as it currently might do.

**Deputy Dermot Ahern:** As I stated, I have some sympathy with the views expressed in this respect. I assure the House that the Attorney General and his office have spent a bit of time on this provision. They would not normally use it, but the Attorney General is adamant that, in the context of this ground-breaking legislation, there needs to be a contingency plan. As to examining the formulation, I can revert to the Attorney General and his office to determine whether something better can be done, although I am not sure anything can be done.

This provision and that of the British-Irish Agreement Act are not absolutely *ad idem* with each other and so I accept Senator Bacik’s point. The provision is phrased in a way that is completely new. As the Senator is aware, it will operate in the courts every day from the date of its commencement. We will know very quickly if difficulties arise in respect of it. We are appreciative of that possibility.

Amendment, by leave, withdrawn.

**Senator Ivana Bacik:** I move amendment No. 32:

In page 10, between lines 36 and 37, to insert the following subsection:

“(3) In particular, the Minister may by regulation provide for a centralised system of data collection and retention on sentences handed down in the District and Circuit Courts.”.

This amendment relates to a matter I raised on Second Stage. As the Minister indicated, this legislation is ground-breaking in nature and we welcome it. We hope and anticipate it will reduce the number of persons imprisoned for failure to pay fines. The Irish Penal Reform Trust has again reminded us of the enormous number of people imprisoned, some 3,366 — an increase of over 50% on the total for 2008 — in the first ten months of 2009. The trust also highlighted the solid evidence that community service programmes are far more successful than custodial sentences when it comes to dealing with fine defaulters. In that context, it referred to an article by Ian O'Donnell and others from 2008 which states that 85% of fine defaulters currently return to prison within four years. An alternative must, therefore, be considered and I am delighted this is being done in the Bill.

As stated on Second Stage, however, the difficulty with assessing the impact of this legislation will arise in the context of the absence of any centralised source of data on sentencing in Ireland. I also pointed out on Second Stage that the Central Criminal Court provides information on the sentences it hands down but as the Minister is well aware, that court only deals with the most serious offences of murder and rape. The bulk of cases in respect of which the legislation will have an impact will be heard in the District Court and, to a much lesser extent, in the Circuit Court. We will need to know whether the legislation works. We will also require information on the type of sentences courts will be handing down and statistics relating to the number fine defaulters who will be given community service.

A centralised system of data collection and retention for sentences handed down in the District Court and the Circuit Court is long overdue. The Minister will probably state that this Bill is probably not the ideal vehicle in which to provide for the establishment of such a system. I accept that but I decided to table the amendment in respect of this section which deals with the Minister's power to make regulations. An essential part of assessing the impact of this Bill will be trying to identify a source in respect of sentencing data.

The Minister referred to the practical impact of the legislation and indicated that it will be operated in the courts as soon as it comes into force. When I was starting out in practice in London, the magistrates' courts were just beginning to operate a new system of fines. These fines were imposed on a sliding scale and were based on an offender's ability to pay. I am sure the Minister's officials investigated this matter and he will be aware that the system to which I refer was discontinued as a result of difficulties with its workability. I recall that its operation was extremely complex.

To ensure the system set out in the Bill works, there will be a need for us to arrive at a better way to assess its impact and obtain information relating to the type of sentences that will be handed down in the District Court and the Circuit Court. A huge volume of cases is dealt with in the District Court and it is difficult to ascertain patterns in respect of sentencing, the imposition of fines and the level of fine default. I am concerned we will pass the legislation but that we will never know for sure — other than by means of the usual anecdotal reports, which are not satisfactory — how it will work in practice. If he is not willing to accept the amendment, would the Minister contemplate providing for such a centralised system in some other legislation or in some other way?

**Senator Eugene Regan:** I support the amendment and I accept Senator Bacik's observation regarding whether it should be included in this legislation. In light of the extent to which law is administered in the District Court and the Circuit Court, the matter to which the amendment relates is very important. A system such as that suggested would act as a guide to policy and would provide essential and useful feedback on what happens in the courts. Ultimately, it would bring about greater coherence in respect of sentencing. The amendment has merit and,

[Senator Eugene Regan.]

regardless of whether the Minister accepts it or commits to its being dealt with in some other context, it is to be commended.

**Deputy Dermot Ahern:** In effect, Senator Bacik anticipated what I was going to say. This is not the Bill in which to deal with this matter. I am not sure if I can provide a commitment to consider it in the context of other legislation because it could possibly interfere with the data collection system, the Irish sentencing information system, ISIS, being developed by the Judiciary with the aid of the Courts Service. The development of said system is being overseen by a steering committee which was established by the Courts Service board and which is chaired by Ms Justice Susan Denham of the Supreme Court. The steering committee is comprised of a judge from each court jurisdiction as well as a leading academic expert on sentencing.

I understand a number of pilot projects have been run in several court jurisdictions, including the Circuit Criminal Courts in Dublin, Cork and Limerick, the District Court in Dublin and the Court of Criminal Appeal. The outcome of these projects is being reviewed and assessed by judges prior to final evaluation and establishment. It is envisaged that in addition to the content which is being compiled, following consultation with the Data Protection Commissioner, the system will contain references to leading cases on sentencing and summaries and links to significant judgments on sentencing law, statistical data and academic material on sentencing. This system will act as a valuable support to judges when they are considering the sentences to be imposed in individual cases.

Moves are also afoot at EU level in order that a common platform will operate across Europe. As already stated, the responsibility in this area lies primarily with the Judiciary on the basis that the information is for use by them in the context of achieving consistency in respect of sentencing. The information to which I refer will also be available to practitioners.

**Senator Ivana Bacik:** I thank the Minister for providing an update, although he did not indicate when this project is likely to come to fruition. We have been awaiting some time for information relating to its outcome. I am aware that a number of pilot projects were conducted. Unfortunately, there have been many such projects in the field of criminal justice, for example, the drug treatment courts, etc., but we never tend to see these being rolled out. Placing the initiative of the Courts Service and the Judiciary on a statutory basis or providing a timeline in order that we might know when the system will come into effect might prove useful. The work relating to this system has been ongoing for some time.

Amendment, by leave, withdrawn.

Section 11, as amended, agreed to.

## SECTION 12.

**An Cathaoirleach:** Amendments Nos. 33 and 34 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Ivana Bacik:** I move amendment No. 33:

In page 11, line 7, after “income” to insert the following:

“and the amount and nature of the person’s annual outgoings”.

The purpose of amendment No. 33 is to provide greater clarity in respect of the workings of section 12, which sets down the criteria by which a court will assess the financial circumstances of a person who has been convicted of an offence. Section 12(a) should have regard to the

amount of a person's annual income. The amendment suggests that this should also include the amount and nature of the person's annual outgoings. It is clear that if someone has a large number of outgoings, especially those of a fixed nature, such as rent, mortgage payments, child support payments, court-ordered maintenance payments, etc., these should be taken into account. Otherwise, the court might obtain a false or inflated sense of the resources available to a person.

Amendment No. 34 relates to section 12(b) and is designed to ensure a court considers all the assets of a person and not just his or her real or personal property. There could assets which do not fall within the scope of the Bill, such as intellectual property, shares etc.

I note the Irish Penal Reform Trust has suggested another point on section 12(b) to the effect that the estimated value of real property, in particular, should be assessed, together with the potential for sale in the prevailing real estate market. Such potential for sale might be zero in the prevailing real estate market, but this is an attempt to give the court a better sense of reality regarding a person's assets and resources when it is trying to assess his or her financial circumstances under section 12. Again, the intention is to try to make it more workable and give the court a little more information before it makes its judgment based on financial circumstances and ensure it is not given either an inflated sense of a person's income or a deflated sense of a person's assets, as a person might be wealthy in terms of assets other than real and personal property belonging to him or her.

**Deputy Dermot Ahern:** This proposal was the subject of significant discussion in the other House and I undertook to re-examine it. However, the view of the drafters of amendment No. 33 is that paragraphs (c), (d) and (e) of section 12 significantly deal with the issue of financial circumstances and that what is being proposed would not add to it in any way.

As for amendment No. 34, section 12(b) is drafted in such a way that no assets are excluded. It specifies "the aggregate value of all property (real and personal) belonging to the person". Again, the Parliamentary Counsel's view is that this allows for a situation in which no property or assets will be excluded.

Amendment, by leave, withdrawn.

Amendment No. 34 not moved.

Section 12 agreed to.

#### NEW SECTION.

Government amendment No. 35:

In page 11, before section 13, to insert the following new section:

"13.—(1) A notification or other document that is required to be served on or given to a person under this Part shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:

(a) by delivering it to the person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

or

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

(2) For the purpose of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.”.

**Deputy Dermot Ahern:** This is a standard provision found in legislation where provision is made for a notification or other document to be served on or given to a person. A recent example of such a provision can be found in section 9 of the Charities Act 2009. An example of where such a notification is required under this Bill may be found in section 15(2), under which the Courts Service must notify the receiver in writing that a person has failed to pay a fine by the due date. As I noted, this should be a standard provision in the Bill.

Amendment agreed to.

### SECTION 13.

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

**Senator Ivana Bacik:** While I have not tabled an amendment to the section, I flag for Report Stage that section 13(3) reads as though, even after all the circumstances are taken into consideration and the court decides a level of fine that will not have a detrimental effect on the situation of the defendant and his or her dependants, the court may still impose a fine greater than one that is reasonable in the circumstances. Again, I am grateful to the Irish Penal Reform Trust for raising this issue with me. In other words, section 13(3) implies that a court may impose an unreasonably high fine, notwithstanding the stated purpose of section 13(1). Has the Minister given any thought to this point? For example, has he considered limiting the power in section 13(3) to exceptional cases or requiring the court to provide an explanation of the reason an unreasonable sanction was provided for or decided upon? It appears as though section 13(3) contradicts section 13(1) because it more or less states that, in spite of the section’s purpose, the court may impose a fine that is greater than the otherwise appropriate fine.

**Deputy Dermot Ahern:** I am unsure of the point being raised by the Senator. Section 13(3) states:

A court may, in making a determination under *subsection (2)*, impose a fine that is greater than, less than or equal to the otherwise appropriate fine having regard to the purpose of this section but in any case a court shall not impose a fine that is . . . greater than the maximum fine . . . or . . . less than the minimum fine . . . to which a person would be liable upon conviction of the offence concerned.

It relates to the capacity of the person to pay. Obviously, if someone can well afford to pay a fine, that is something the court can take into account.

**Senator Ivana Bacik:** I wish to tease this out because it is an important point. I am trying to put myself in the shoes of a court or a district judge who is trying to reach a figure for a fine and considering the terms of section 13. I note that section 13(8) states this only applies where the court has discretion in determining the amount of the fine. Section 13(9) states:

“otherwise appropriate fine” means the fine that the court would impose on the person in respect of the offence ... if, in determining the amount of the fine, it were not required to take into account the person’s financial circumstances.

If one then considers section 13(1), it states:

The purpose of this section is to ensure as far as practicable that, where a court imposes a fine on a person, the effect of the fine on that person or his or her dependants is not significantly abated or made more severe by reason of his or her financial circumstances.

Similarly, section 13(2) specifies that in determining the amount of the fine, the court must take into account the person's financial circumstances, while section 12 gives guidance to the court on the criteria to be used in determining the financial circumstances. However, section 12(3) appears to undermine all of these good intentions and purpose by stating a "court may, in making a determination under *subsection (2)*", in other words, in considering the amount of the fine taking into account the financial circumstances and deciding on a level it considers to be appropriate, impose a fine that is greater than the maximum fine.

I note that the purpose of section 13(3) is to give the court power to impose a fine that is greater than what would otherwise be appropriate if it considers that the person has sufficient assets to pay it. However, the Irish Penal Reform Trust has made the point that were this power to be included, it should only be capable of being exercised in exceptional circumstances and when an explanation was given because it appears to lead to a potential injustice, given the stated purpose as outlined in section 13(1). I have a concern in this regard because it allows the court to impose a fine that is greater than what would otherwise be appropriate if it did not consider financial circumstances because someone has plenty of assets, yet the courts also are being told to ensure there is no significant adverse effects on the person or his or her dependants. Consequently, will the Minister consider inserting a proviso to the effect that if the courts do this, they should at least be obliged to explain the reason they are so doing and that they should do so only in exceptional circumstances? I refer to the scenario in which a court was to impose a fine greater than the otherwise appropriate fine.

**Deputy Dermot Ahern:** I do not believe it would be in exceptional circumstances because the section is endeavouring to deal with people who do not have the capacity to pay fines. The legislation is placing an onus on the court to take into account their financial circumstances. However, if, from the court's point of view, the financial circumstances of the person are not an issue, the court should be free to make a determination to impose a fine as it sees fit within the ambit of the legislation. I am not altogether certain that I am getting the Senator's point. Perhaps I will revert to this matter again on Report Stage. In the meantime my Department will examine the submission from the Irish Penal Reform Trust.

**Senator Ivana Bacik:** As I am thinking on my feet somewhat, I apologise for not being a little more coherent but to clarify, one must have regard to the standard drafting principle that where an ambiguity arises when one is dealing with a criminal statute, it must be interpreted in favour of the accused. As the Minister noted, the context is that the purpose of the Bill is to deal with those persons who cannot afford to pay what otherwise would be a reasonable fine. I take his point in this regard and acknowledge that they will provide the majority of cases to which section 13 will apply. However, the section also provides that a court may impose a fine greater than the otherwise appropriate fine. There is not sufficient criteria or clarity in the limits to a court's power to impose this greater fine. Presumably it is where a court considers that an offender has sufficient resources or assets to be able to afford to pay a higher fine but there are no criteria as to what are the circumstances in which the court can make that adjudication. It is fair that the court should impose a fine less than the otherwise appropriate fine where it considers that an offender simply does not have the resources or the effect on his or her dependants would be so severe if the otherwise appropriate fine was imposed.

My concern is that where a court breaks out of that and imposes a greater fine because it considers the accused is wealthy, this would impose a harsher sanction than what would be

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appropriate or reasonable in normal circumstances and yet there is no clear criteria as to the circumstances in which the court can make that adjudication. This is something that might be open to challenge. I accept it is something that would only arise in a very small number of cases and that the majority of cases would be cases where the court would impose a lesser fine. That is appropriate and in a criminal statute that power does not need to be as carefully demarcated. However, the power to impose the greater fine needs a little more clarity or precise demarcation, given the implications it might have.

**Senator Eugene Regan:** This is an important point. The Minister said the court has the latitude to impose a fine that it deems fit and what it would deem fit is what it would deem appropriate. This seems arbitrary. A judge could impose a fine that is more than appropriate. In other words, the judge would have come to a reasonable conclusion as to what would work, be appropriate and fit and could then increase that fine for some arbitrary reason. That seems unreasonable. Perhaps this is something that should be revisited on Report Stage.

**Deputy Dermot Ahern:** I will have another look at it but the idea behind this section was to put into practice the principle of equality of impact. We were endeavouring in circumstances where people could afford to pay to provide that the normal fine, as determined by the judge, would be struck but in circumstances where there would be a financial difficulty that a lesser sum than what would be regarded as the appropriate amount and could be struck. We are seeking to deal with this issue of equality of impact.

We will have another look at it between now and Report Stage but I cannot guarantee that we will come up with something better. The Senators might come up with their own formulation and we will have another look at it. I would be loathe to agree to something like saying this can only be done in exceptional circumstances because a court should be given discretion rather than tying its hands to exceptional circumstances.

**Senator Ivana Bacik:** The appropriate way to deal with this might be to delete the words “greater than” because the more I think about this the more I believe it would be open to challenge. A common law sentencing must be exercised in a reasonable manner. If a court is being told it can devise what would be an otherwise appropriate fine without regard to financial circumstances, when it would examine the financial circumstances, sections 12 and 13 would allow it to reduce the fine and that would be appropriate and fair to the accused because it would give him or her a lesser sanction.

However the two words “greater than” also empowers a court to impose a more than reasonable fine on a person by virtue of his or her financial circumstances and that seems unfair to an accused and potentially in breach of that common law principle. I am trying to think of case law on that common law principle, but I believe there is some constitutional backing for the idea that sentencing should not be exercised in an unreasonable manner. I accept that the power is obviously subject to the maximum fine where that fine is imposed. As the Minister will be aware courts will often impose a fine that they consider reasonable and is not the maximum fine in respect of a particular offence because of the circumstances of the offence and of the offender. This is giving the court power to sentence in an unreasonable manner that is unfair and disadvantageous to an accused because of his or her financial circumstances. It may only apply to a tiny number of accused persons but it is still a problematic phrase.

The Minister is probably right in that exceptional circumstances might not be the best way to deal with this but if the words “greater than” were removed, the true purpose of the section would become clear; it is to allow the court to impose a fine that is less than the appropriate fine where the offender cannot afford to pay the otherwise appropriate fine.

**Deputy Dermot Ahern:** I will look at this again for Report Stage. We are not due to take Report Stage today.

**An Leas-Chathaoirleach:** A separate Report Stage would have to be ordered and it has not been ordered at present, but a change could be made to the Order of Business.

**Senator Ivana Bacik:** I do not want to delay the passage of the Bill but given that it is now 4.15 p.m. and that we still have a considerable number of amendments with which to deal, it may not be possible to get through Report Stage.

**Deputy Dermot Ahern:** This is a Bill I would like to get on the Statute Book sooner rather than later.

**Senator Ivana Bacik:** We all would; we are all anxious to get it on the Statute Book sooner rather than later but we want to make sure it is effective legislation.

Question put and agreed to.

#### SECTION 14.

Government amendment No. 36:

In page 12, subsection (2)(b), line 37, to delete “from” and substitute “after”.

**Deputy Dermot Ahern:** A court when directing that a fine be paid by instalments will specify the time during which the instalments will be paid. It can be for 12 months or a shorter period from the time the fine will otherwise have been due to be paid. This is called due date of payment.

The purpose of the official amendment is to ensure that in accordance with normal practice the time during which the fine must be paid in instalments commences the date after the fine would otherwise have had to be paid instead of the day itself. This is a minor drafting amendment.

Amendment agreed to.

**An Leas-Chathaoirleach:** Amendments Nos. 37 and 39 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 37:

In page 12, subsection (3), to delete lines 38 to 40 and substitute the following:

“(3) Upon the application of a person to whom a direction under *subsection (1)* applies, the court that gave the direction may, by further direction—”.

**Deputy Dermot Ahern:** This provides for payment of fines by way of instalments. Subsection (1) permits an offender to make an application to the court that imposed the fine to use that method of payment. Subsection (7) obliges the court to inform the offender of his or her right to make such an application. It is the intention that the application can be made at a time after the court hearing at which the fine was imposed. For example, a person might not, for a number of valid reasons, have applied to pay by instalments when the fine was imposed but subsequently he or she might incur, say, a major expense that would make the paying of the fine and lump sum difficult. The Bill places no time limit on the making of such an application although common sense would suggest an application after the due date of payment would not

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be entertained. However, in order that there is no uncertainty, amendment No. 39 states that any application to pay by instalments has to be made before the receiver is notified of the default. This is likely to be several weeks after the default as some breathing space is given to persons to pay following a series of reminders.

Amendment No. 37 is consequential to providing that an application can be made any time up to the notification of the receiver of the default. This is because a person can make a further application for the extension up to one year after the original application. It is necessary that the two applications are not confused. The first application is to pay by instalments and the second is for an extension to the original period of payment directed by the court.

Amendment agreed to.

**An Leas-Chathaoirleach:** Amendments Nos. 38, 56 and 64 are related and may be taken together by agreement. Is that agreed? Agreed.

Government amendment No. 38:

In page 13, lines 22 to 30, to delete subsection (6).

**Deputy Dermot Ahern:** These are essentially drafting amendments. The drafter has decided that subsection (6) of section 14 while correct does not fit comfortably in section 14. Its purpose is to establish the appropriate period of imprisonment when a fine has been partially paid by instalments. This is already achieved in section 17 at the inserted section 2A(3) into the Courts (No. 2) Act 1986 in relation to defaults on fines imposed on indictment.

I now propose to include a similar provision relating to fines imposed on summary conviction into the inserted subsection (1)(b) into the amended section 2 of the 1986 Act. This is a more obvious place for these amendments as the relevant provisions in section 17 already deal with the appropriate periods of imprisonment where the receiver can only recover part of the fine or the proceeds of seized goods that might only satisfy part of the fine.

It is also proposed to add the same definition of “fine” to section 2A of the Courts (No. 2) Act 1986, as is being added to section 2, that is, to ensure that it does not include the fees and expenses of the receiver. These only have a relevance in section 15.

Amendment agreed to.

Government amendment No. 39:

In page 13, between lines 33 and 34, to insert the following subsection:

“(8) An application referred to in *subsection (1)* may be made at any time before the notification of the receiver under *subsection (2)* of *section 15*.”.

Amendment agreed to.

**Senator Ivana Bacik:** I move amendment No. 40:

In page 13, lines 34 and 35, to delete subsection (8).

This was raised in the Dáil and I also raised it on Second Stage. The purpose of this amendment is to delete the subsection which imposes a limit and states that it should apply only to fines greater than €100. Overall, we very much welcome this section and the power to pay fines in instalments. It will be very useful in terms of keeping people out of prison and enabling them

to manage their budgets. However, it does not seem necessary to state that only fines greater than €100 will come within its terms.

I do not see why it is not possible to pay a fine of €70, €80 or €100 in instalments. For example, with non-payment of refuse charges, local authorities have systems where people can make repayments in instalments of as little as €5 per week. This can be a much easier way for people to pay off relatively small debts of €70 or €80. Where people are in receipt of social welfare payments, earning subsistence wages or in part-time work and where every penny is accounted for in weekly outgoings, it may be problematic to pay a €100 fine in one instalment. It might be appropriate to give courts the power to order instalments for fines of less than €100.

As I said the last day, it applies to any fine greater than €100 so even a fine of €100 cannot be repaid by instalments. That seems out of keeping with the very welcome purpose of the section and its ethos, namely to try to keep people out of prison when they simply cannot afford to pay fines.

I acknowledge the Penal Reform Trust's support for this amendment. It also suggested that the limit of €100 should be removed. There is no reason for it. I simply suggest that this subsection be deleted from the Bill.

**Senator Eugene Regan:** I support this amendment. The Minister spoke about leaving discretion to the court to decide. This is one case where it can be left to the court to decide what is appropriate. This limit is regressive. In a way, it runs contrary to the purpose of the Bill which is to deal with situations where people find themselves unable to pay fines and face the threat of committal to prison. It does not add to the Bill to have this cut off point. It could be left to the court to exercise its discretion in how it determines the fines and how they are to be paid.

**Deputy Dermot Ahern:** If one could pay fines of under €100 by instalments, it would lead to a substantial workload on the Courts Service. A conservative estimate suggests 10,000 such successful applications annually. Less than 10% of the total number of fines imposed could realistically lead to an additional 100,000 transactions.

When one looks at the type of fines imposed in the District Courts, 70% relate to motor traffic offences. Normally, the fines are more than €100. The percentage of fines for road traffic offences, which result in a fine of less than €100, is approximately 70%. If people are unable to pay, that section kicks in. The court would have to take that into account, so it would impose an appropriate fine based on the person's circumstances. Some 70% of the fines imposed in the District Courts are for road traffic offences and if people are able to afford a car, they should be well able to afford a fine of more than €100. This is to ensure the Courts Service does not collapse under the bureaucratic system which would have to be built in for fines. We have gone as low as we felt possible in consultation with the Courts Service.

**Senator Ivana Bacik:** With respect, that is not an appropriate response. To state it would impose an undue burden on the Courts Service rather than refer to any principled reason for this limit does not seem to be an adequate answer. We may see courts' discretion being fettered because a judge will know a fine of less than €100 cannot be paid in instalments. We might reach a very unsatisfactory outcome where courts impose higher fines to give people the capacity to pay in instalments which runs contrary to the principle, the Title and stated purpose of the Bill.

I do not see an administrative burden as sufficient reason. There will be ways to automate fine collection and to ensure it is done in a more streamlined fashion in order that it does not impose such a burden on the Courts Service. I do not believe the answer is simply to impose an arbitrary limit of €100 for fines to which the instalment power can apply.

[Senator Ivana Bacik.]

I intend to press this amendment because it relates very much to the purpose, stated ethos and Title of the Bill in seeking to modernise the fine collection system as much as anything else and to ensure fewer people are sent to prison for non-payment of fines if they cannot afford to pay. I ask the Minister to consider it again.

**Senator Eugene Regan:** The Minister mentioned road traffic offences and that people who are fined have a car and presumably some means. It could be confined to those types of offences and in that way, it would not cut across those who have a genuine problem paying a fine of €100.

**Deputy Dermot Ahern:** To what could it be confined?

**Senator Eugene Regan:** It could be confined to the type of offences to which the Minister referred.

**Deputy Dermot Ahern:** Road traffic offences.

**Senator Eugene Regan:** Yes.

**Senator Ivana Bacik:** Senator Regan raised a point I should have mentioned in response to the Minister's reference to road traffic cases. That conjures up a very different picture of somebody who, as Senator Regan said, owns a car and, therefore, has some means. In that situation, it may well be that most of the fines are more than €100.

My experience of cases where fines are imposed are not in the road traffic cases but public order offences, possession of cannabis and prostitution-related offences where people are, for the most part, genuinely impecunious. Some €100 is a significant amount of money in terms of loitering and soliciting and public order offences. Routinely fines of €50 are imposed in those instances. It is not that there are few cases where fines of less than €100 are imposed. They tend to be imposed where people genuinely have difficulty paying it in one instalment.

**Deputy Dermot Ahern:** We looked at this very carefully and wanted to be fair to people. Equally, we did not want to overburden the system with this new provision which has been welcomed by everyone. It is not unreasonable to expect somebody fined a sum of up to €100 to pay it in one go given that 70% of all fines are for road traffic offences.

While Senator Regan's proposal to restrict this to non-road traffic offences might be sound and good, the Attorney General would probably not run the rule over it on the basis that it is relatively arbitrary. We are trying to be fair to people in this legislation. If people were be fined similar amounts for different offences, some would be able to pay by instalment while others would not. The idea of this legislation is to have equality of impact. If one was to try to apply this provision to one type of offence, as opposed to others, it would not be fair. It was suggested that the threshold should be higher but I considered, in the circumstances, that the figure of €100 placed an onus on the Courts Service to allow for instalment procedures for fines above what is a relatively small figure. While I accept people may be in difficulty, the provisions on capacity to pay will have already kicked in under the legislation.

**Senator Ivana Bacik:** As I stated, I do not accept administrative expediency as a reason for imposing what I would describe as an arbitrary limit of €100 and for this reason, I will press the amendment.

There does not appear to be any good reason for providing that the power to pay in instalments will apply only to fines of €100 or greater. This approach will lead to hardship and have

the unfortunate outcome of courts imposing higher fines than they would otherwise have done to enable people to pay in instalments. The current provision may result in the administratively awkward practice of courts imposing fines of €101 to ensure people have the capacity to pay in instalments. In principle the amendment is worth pressing.

**Deputy Dermot Ahern:** I do not believe the provision would be operated as described. Judges would not specifically fine someone €101 to allow him or her to pay in instalments when they have the ability to take into account the person's financial circumstances and impose a fine of a lesser amount. The scenario presented by the Senator does not make sense.

**Senator Ivana Bacik:** A figure of €101 may appear nonsensical but under the wording of the section the instalment option will only apply to fines greater than €100. For this reason, a fine of €100 would not attract the power to pay in instalments. As I indicated during the previous debate on the Bill, leaving aside the larger point about the limit, the section should at least use the words "greater than or equal to €100" to provide that fines of €100 could also be paid in instalments. As the Minister indicated, a fine of €100 is much more common than a fine of €101. The reason judges will issue fines of €101 is that they will realise that the power to pay in instalments only kicks in for fines exceeding €100. Greater clarity is necessary to ensure fines of €100 and above are covered by the instalment option.

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

Question put.

The Seanad divided: Tá, 26; Níl, 19.

Tá

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Carty, John.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
Ellis, John.  
Glynn, Camillus.  
Hanafin, John.  
MacSharry, Marc.

Mooney, Paschal.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Brien, Francis.  
O'Donovan, Denis.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
Ormonde, Ann.  
Phelan, Kieran.  
Quinn, Feargal.  
White, Mary M.  
Wilson, Diarmuid.

Níl

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

Healy Eames, Fidelma.  
McFadden, Nicky.  
Norris, David.  
O'Toole, Joe.  
Phelan, John Paul.  
Regan, Eugene.  
Ross, Shane.  
Ryan, Brendan.  
Twomey, Liam.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Ivana Bacik and Brendan Ryan.

Question declared carried

Amendment declared lost.

**An Leas-Chathaoirleach:** Amendments Nos. 41 and 42 are related and may be discussed together.

Government amendment No. 41:

In page 13, lines 36 to 43, to delete subsection (9) and substitute the following:

“(9) In this section “due date for payment” means, in relation to a fine, the date by which the fine would, but for a direction under this section, be required to be paid in accordance with the order of the court that imposed the fine.”.

**Deputy Dermot Ahern:** I thank Senator Regan for bringing this matter to our attention. Several amendments were made to section 14, the effect of one which was that the “due date for payment” definition was rendered unnecessary. However, it remained owing to an oversight. Our amendments take care of the problem.

**Senator Eugene Regan:** I thank the Minister. We define the term “due date for payment” in a couple of sections of the Bill. As it is now a standard definition, I wonder whether it should be included in the definitions section in order that this overlap can be avoided. I appreciate that the point I made has been taken on board in the amendment. I know there have been many amendments, but having the same definitions in all of the sections is probably unnecessary.

**Deputy Dermot Ahern:** There is only one necessary definition which is included in section 14. We do not believe it is necessary to copy it in other sections. It is a matter of leaving it where it is.

**Senator Eugene Regan:** It is included in sections 15, 19 and 59. We also have the standard definition. This is not a point of principle. I am putting it to the Minister that as we are repeating the definition, perhaps a standard single definition could be inserted in the definitions section.

**Deputy Dermot Ahern:** I am satisfied that it is only necessary to include it in section 14.

**Senator Eugene Regan:** It is a fact that the same definition is included in three sections. I am not arguing with the Minister on the actual definition included, but rather that it would be more elegant if there was one common definition without repetition in each section. Perhaps, therefore, the phrase, “In this section “due date for payment” means,” is unnecessary. It is a question of drafting.

Amendment agreed to.

Amendment No. 42 not moved.

Section 14, as amended, agreed to.

## SECTION 15.

Government amendment No. 43:

In page 14, subsection (1), lines 1 to 4, to delete paragraphs (a) and (b) and substitute the following:

“(a) recover—

(i) the fine, or, as may be appropriate, that part of the fine that, upon the notification of the receiver under *subsection (2)*, remains unpaid, and

(ii) the fees of the receiver and the expenses reasonably incurred by the receiver in the performance of his or her functions, or

(b) seize and sell property belonging to the first-mentioned person and recover from the proceeds of the sale of that property a sum equal to the amount of—

(i) the fine, or, as may be appropriate, that part of the fine that, upon the notification of the receiver under *subsection (2)*, remains unpaid, and

(ii) the fees of the receiver and the expenses reasonably incurred by the receiver in the performance of his or her functions.”.

**Deputy Dermot Ahern:** When a receiver is notified by the Courts Service that a person has not paid a fine by the due date, the recovery order made by the court when the fine was imposed will take effect. This gives the receiver power to recover the fine or seize or sell property belonging to the offender equal to the amount of the fine. It may be that part of the fine was paid, for example, by instalments. One of the purposes of the amendment is to give the receiver power only to recover either the part of the fine that remains unpaid, or seize or sell property equal to the value of the unpaid part of the fine. While it may be implied that the receiver can only recover money or property to the value of the unpaid part of the fine, it is desirable to set it out clearly in the Bill.

The other purpose of the amendment is to permit the receiver to recover his or her fees and expenses reasonably incurred in the performance of his or her duties. Appropriate fees will be set out in a fees order and a record of expenses will have to be maintained and given to the Courts Service every six months. Any overcharging on the expenses could have implications for a contract between the Courts Service and the receiver and could also be a criminal offence.

Amendment agreed to.

Government amendment No. 44:

In page 14, subsection (2), line 9, to delete “notify” and substitute “notifies”.

**Deputy Dermot Ahern:** This is a drafting amendment which acknowledges that the Courts Service is singular, rather than plural.

Amendment agreed to.

Government amendment No. 45:

In page 14, subsection (3), line 25, to delete paragraph (e) and substitute the following:

“(e) insure the property, and”.

**Deputy Dermot Ahern:** This is a drafting amendment that adds the word “and” to the end of paragraph (e) of subsection (3) which sets out the rights and responsibilities of a receiver as authorised by the court.

Amendment agreed to.

**An Leas-Chathaoirleach:** Amendments Nos. 46 to 53, inclusive, are related and may be discussed together.

Government amendment No. 46:

In page 14, subsection (4), lines 33 to 36, to delete all words from and including “court” in line 33 down to and including “functions.” in line 36 and substitute “court.”.

**Deputy Dermot Ahern:** On Report Stage I introduced a list of amendments setting out how the provisions relating to the receiver would operate in practice and how receivers would be appointed. The purpose of these amendments is to put on a statutory basis measures that are necessary to ensure the fees the receiver can charge and the expenses he or she can claim are open, transparent and reasonable. Taking the amendments in sequence, amendment No. 46 removes the requirement relating to the vouching of expenses; instead of placing the time-consuming responsibility on the Courts Service for vouching every expense, it puts the onus on the receiver of making and maintaining a record of expenses and fees and forwarding them to the Courts Service at a regular interval. I will mention these aspects of the amendments, but, first, I would like to say a few words about amendment No. 47.

Section 15(4) obliges a receiver to perform his or her functions subject to directions or conditions specified in the recovery order, including any directions or conditions having regard to the payment of amounts received in court. Amendment No. 47 allows the receiver to apply to the court for directions relating to the performance of his or her functions. Receivers will have to contend with many circumstances when performing their duties, ranging from recovering small to very large amounts. It is wise that the receiver be given power to apply for directions to the court in specific circumstances.

Amendment No. 48 deals with what will happen if the receiver recovers or sells property of greater value than the amount of the fine or the unpaid part of the fine. It repeats the provision under which the receiver will be obliged to return to the offender the part of the proceeds of the sale that exceeds the amount of fine or the unpaid part of the fine. In addition, for the purposes of this provision, the normal definition of “fine” is changed so as to include the fees of the receiver and expenses reasonably incurred by him or her. This is because when the fine is imposed, it will not at that stage be known what the exact amount of the receiver’s expenses will be; therefore, they will not form part of the fine. This also entails the deletion of the definition of “fine” in amendment No. 52 for the purposes of the section. The definition of “fine” in section 12 will apply to this section.

Amendment No. 49 deals with the making of a fees order by the Minister for Justice, Equality and Law Reform with the consent of the Minister for Finance. I envisage that the fees orders made under this provision will be similar to those made under the provisions set out for sheriffs and Revenue sheriffs under which they operate. The work they will perform will essentially be the same.

Amendment No. 51 obliges the receiver to make and maintain a written record of the fees deducted and expenses incurred and deducted from the sum recovered, or the proceeds of any sale of property pursuant to a recovery order. At least every six months the receiver will give the Courts Service the written record of fees and expenses. The making of false and misleading entries in the record will be a criminal offence. I have decided to create this offence for which there will be severe penalties because where false and misleading information is given, there is the potential for considerable amounts of money to be involved. I also envisage that the contract between the receiver and the Courts Service will be drawn up in such a way that in such circumstances the contract will be immediately terminated.

Amendments Nos. 50 and 53 are largely drafting amendments. The only difference between section 15(8) being deleted and the new section 16 is the addition of the receiver’s fees to the

moneys that can be subtracted from the moneys that will be paid into the Exchequer as a result of the appointment of the receiver.

The amendments complete the scheme proposed for the operations of the receiver. During the Dáil debate, particularly on Report Stage, the role of the receiver was revised and made more central in how the default provisions would work. The revised role of the receiver made it important that the fees and expenses provisions were fully thought through and included in the Bill, instead of being left to administrative action or rules of court. The amendments will facilitate a smoother operation of the receiver provisions, as well as obliging receivers to maintain proper records of expenses.

Amendment agreed to.

Government amendment No. 47:

In page 14, between lines 36 and 37, to insert the following subsection:

“(5) A receiver may, at any time after receiving a notification under *subsection (2)*, apply to the court that made the recovery order under which he or she was appointed for directions in relation to the performance of his or her functions under this Act.”.

Amendment agreed to.

Government amendment No. 48:

In page 14, lines 41 to 45, to delete subsection (6) and substitute the following:

“(6) (a) Where the receiver sells property belonging to the person in relation to whose property the receiver has been appointed and the proceeds of the sale exceed the amount of the fine or the amount of the fine remaining unpaid, as the case may be, the receiver shall pay to the person so much of those proceeds as exceeds that amount.

(b) In this subsection “fine” includes the fees of the receiver and any expenses reasonably incurred by the receiver in the performance of his or her functions.”.

Amendment agreed to.

Government amendment No. 49:

In page 15, between lines 7 and 8, to insert the following subsection:

“(8) (a) The Minister may, by order, specify—

(i) the fees that a receiver may deduct from any sum or sums recovered by him or her, or obtained from the proceeds of the sale of any property by him or her, in accordance with this section, or

(ii) the rates at which fees that may be so deducted shall be calculated.

(b) The Minister shall not make an order under this subsection without the consent of the Minister for Finance.”.

Amendment agreed to.

Government amendment No. 50:

In page 15, lines 8 to 13, to delete subsection (8).

Amendment agreed to.

## Government amendment No. 51:

In page 15, between lines 13 and 14, to insert the following subsections:

“(9) The receiver shall make and maintain a record in writing of—

(a) the fees deducted, and

(b) the expenses incurred and deducted, by him or her from the sum or sums recovered, or the proceeds of the sale of any property sold, by him or her pursuant to a recovery order.

(10) The receiver shall, not later than 6 months after the performance by him or her of his or her functions pursuant to a recovery order, give to the Courts Service the record required to be made and maintained under *subsection (9)* relating to that recovery order.

(11) If a receiver makes, or causes to be made, an entry in a record required to be made and maintained under *subsection (9)* that—

(a) is false or misleading in any material respect, and

(b) he or she knows to be false or misleading,

he or she shall be guilty of an offence and shall be liable—

(i) upon summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(ii) upon conviction on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(12) A record required to be made and maintained under *subsection (9)* shall be in such form as the Courts Service shall determine.”.

Amendment agreed to.

## Government amendment No. 52:

In page 15, subsection (9), to delete lines 21 and 22.

Amendment agreed to.

Section 15, as amended, agreed to.

## NEW SECTION.

## Government amendment No. 53:

In page 15, before section 16, to insert the following new section:

16.—Monies paid into the court or otherwise received by it as a result of the appointment of a receiver under *section 15* shall be paid to the Minister for Finance and such monies shall be paid to, or disposed of for the benefit of, the Exchequer in such manner as the Minister for Finance may direct.

Amendment agreed to.

## SECTION 16.

**An Leas-Chathaoirleach:** Amendments Nos. 54, 55 and 57 are related and may be discussed together.

Government amendment No. 54:

In page 15, subsection (1), lines 25 to 27, to delete paragraph (a) and substitute the following:

“(a) by the insertion of the following definitions in subsection (1) of section 1:

“ ‘Act of 2010’ means the *Fines Act 2010*;

‘fine’ has the same meaning as it has in section 2 (amended by *subparagraph (iii)*# of *section 17(a)* of the Act of 2010) of the Courts (No. 2) Act 1986;”, ”.

**Deputy Dermot Ahern:** The purpose of amendment No. 54 is to ensure the definition of “fine” is properly inserted in the Criminal Justice (Community Service) Act 1983 and that the reference to the Fines Act 2010 is correct. Under the 1983 Act, community service can only be imposed by a court as an alternative to imprisonment. In this legislation I am extending the possibility of community service being imposed to situations where a fine has not been paid by the due date and a receiver has been unable to recover the fine or the value in property. Therefore, by inserting in the 1983 Act provisions where the word “fine” is used, it is necessary to define “fine” for the purposes of that Act. The definition being inserted is the standard definition of “fine” as used in the Courts (No. 2) Act 1986 which it is proposed to amend by way of amendment No. 57 to section 17.

Section 2 of the Courts (No. 2) Act 1986 deals with the consequences of not paying a fine by the due date for payment. It applies only to fines imposed in the District Court. Amendments Nos. 55 and 57 give the proper reference in the Courts (No. 2) Act 1986 to the Fines Act 2010 and provide for a new definition of “fine” in subsection (2) of the 1986 Act that excludes the fees and expenses of the receiver. This is necessary because the 1986 definition includes a reference to expenses, which could be confused with the receiver’s expenses. The receiver’s fees and expenses are dealt with separately in section 15 of the Bill.

Amendment agreed to.

Question proposed: “That section 16, as amended, stand part of the Bill.”

**Senator Ivana Bacik:** I have a query on section 16(1)(b). Section 16 amends the Act of 1983 and states it applies to a person who has attained the age of 16 years. Does this mean fines can still be imposed on those under 16, but if they default they will still be imprisoned because the new provisions in respect of community service will not apply? I am not trying to catch anyone out on this, but am not clear why the age of 16 has been inserted.

**Deputy Dermot Ahern:** The Children’s Act 2001 deals with the regime of fines for children under the age of 18 and in most circumstances there is reference to community service and other sanctions.

**Senator Ivana Bacik:** I am aware of that, which is why I am puzzled by the age of 16 being inserted here, which makes it appear a child between the ages of 16 and 18 may be subject to two parallel regimes. I am trying to ensure there is co-ordination across the legislation and there is no dual regime in place.

**Deputy Dermot Ahern:** The age of 16 is the minimum age for community service orders in both pieces of legislation.

Question put and agreed to.

**An Leas-Chathaoirleach:** As it is now 5 p.m, in keeping with the Order of Business set out this morning, I call on the Acting Leader to move the adjournment of the debate.

Progress reported; Committee to sit again.

### **Business of Seanad.**

**Senator Denis O'Donovan:** As Acting Leader, I propose, with the permission of colleagues, that we extend our debate for 15 minutes in order to conclude Committee Stage. I know we will not be able to deal with Report and Final Stages, but it would be helpful if we were able to complete Committee Stage.

**Senator Eugene Regan:** I agree we could finish Committee Stage, but due to the intricacy of the Bill and the number of Government amendments made, it would be better not to move on to Report Stage. I am agreeable to completing Committee Stage.

**Senator Ivana Bacik:** I agree with completing Committee Stage now as there is not much left to be done.

**An Leas-Chathaoirleach:** Is it agreed that we continue and complete Committee Stage of the Fines Bill by 5.15 p.m? Agreed.

### **Fines Bill 2009: Committee Stage (Resumed).**

#### SECTION 17.

Government amendment No. 55:

In page 17, line 23, to delete “Act of 2010” and substitute “*Fines Act 2010*”.

Amendment agreed to.

Government amendment No. 56:

In page 18, paragraph (a), to delete lines 5 to 11 and substitute the following:

“(1B) For the purposes of determining the appropriate period of imprisonment specified in the Table, the amount of the fine shall be the fine less—

(a) any sum or sums paid by the person on whom the fine was imposed in satisfaction of part of the fine, and

(b) any sum or sums recovered (whether from the proceeds of the sale of property belonging to the person or otherwise) by the receiver appointed under *section 15* of the *Fines Act 2010*.”.

Amendment agreed to.

Government amendment No. 57:

In page 18, paragraph (a), between lines 11 and 12, to insert the following:

“(iii) the insertion, after the words “ordered to be paid”, in the definition of “fine” in subsection (4), of the following “, but does not include the fees of, or expenses incurred by, a receiver appointed under *section 15* of the *Fines Act 2010*”.”.

Amendment agreed to.

**An Leas-Chathaoirleach:** Amendments Nos. 58 to 63, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Ivana Bacik:** I move amendment No. 58:

In page 18, line 16, column 2, to delete “5 days” and substitute “2 days”.

These amendments try to do the same thing, namely, to change the link between the financial amount and the period of imprisonment. Although I did not get the opportunity to voice this on Second Stage, I have always felt strongly that five days imprisonment is a very severe penalty compared to a fine of €500, as is 30 days compared to €3,000. This is relative and people’s view on how the money payment relates to the period of imprisonment would depend on their financial circumstances. However, where possible we should err on the side of providing for a lesser period of imprisonment to correspond to a particular fine. I do not understand why we have chosen five, ten, 20 or 30 days, when we could have chosen the lesser periods of two, five, ten and 20 days. The Minister is aware that in practice, people are released from prison earlier than the period for which they were originally detained. However, the fact they are detained for a 20-day period for non-payment of a fine will have huge implications for jobs, rent, child care and various issues in their lives. Where possible, we should err on the side of a lower period of imprisonment to correspond to a particular fine. That would be in keeping with the spirit of the Act. Given we will take Report Stage on another day, I ask the Minister to consider the periods I have proposed as an alternative to the fines.

Similarly, I propose that for indictable offences, the maximum period for which a person should be committed to prison should be reduced from 12 months to six months. This would reduce the numbers of persons in prison for fine default and reduce the periods of time they must spend incarcerated. This is in keeping with the spirit of the Bill. The periods of imprisonment will always be somewhat arbitrary, but a period of two, five, ten or 20 days would be more reasonable and more in keeping with a modern view of comparisons between imprisonment and fines.

**Deputy Dermot Ahern:** What the Senator’s amendments try to do is to reduce the maximum periods. In most cases, her suggestion is that the periods be reduced by approximately a half. The current scale of imprisonment for default of payment of a fine imposed on summary conviction is covered in section 2 of the Courts (No. 2) Act 1986. Section 17 of this Bill will amend the scale in two ways. First, the maximum period of imprisonment is being reduced from five, 15, 45 and 90 days, respectively, to five, ten 20 and 30 days. Second, the maximum fines for which periods apply are also being increased substantially. For example, the maximum period of imprisonment for default on payment of a fine between €250 and €500 was 45 days, but this will now be reduced to 20 days for a fine between €1,500 and €3,000.

I emphasise that the periods of imprisonment are maximum periods and not mandatory minimum periods. My concern over reducing the periods too much is that imprisonment would possibly become more attractive than the alternative, which would usually be community service. The possibility of two nights imprisonment, which might or might not be served, might seem a better option to some offenders than 50 to 60 hours of community service. Even where the offender spends no night in prison, the administration associated with admittance and release is a strain on prison resources, which is something with which I am trying to deal in the legislation. On balance, I consider the reductions we have made are as far as we can go, particularly when associated with the fact that most persons committed to prison in the future will be offenders who could have paid their fines quite easily through the various procedures set out in the Bill.

[Deputy Dermot Ahern.]

With regard to the imprisonment of offenders convicted on indictment, a period of 12 months was introduced as recently as 2006 and seems right. When one considers the level of fine that can be imposed for an indictment, a longer period of imprisonment might seem appropriate. However, in view of the fact that the judge who convicted the offender regarded the fine as the appropriate sentence, a relatively short maximum prison sentence of 12 months was provided. I consider this is quite right. While I see some merit in what the Senator says, we cannot go too far down that route.

**Senator Ivana Bacik:** The Minister said the periods of imprisonment in the table are maximum periods. However, this is not quite clear in section 17(a) which states the court “may make an order committing the person to prison for a term not exceeding the appropriate period of imprisonment specified in the Table”. It seems to me that the term “appropriate period of imprisonment” implies that period is a set comparator or alternative to the fine amount rather than a maximum. There is a slight lack of clarity here and I ask the Minister to take another look at it before Report Stage.

I would like to have seen more clarity in section 17 that imprisonment would be the final sanction or sanction of last resort and that a community service order would have been the default sanction on fine default.

Amendment, by leave, withdrawn.

Amendments Nos. 59 to 63, inclusive, not moved.

Government amendment No. 64:

In page 19, to delete lines 20 to 27 and substitute the following:

“(b) any sum or sums recovered (whether from the proceeds of the sale of property belonging to the person or otherwise) by the receiver appointed under *section 15* of the *Fines Act 2010*.

(4) In this subsection ‘fine’ has the same meaning as it has in section 2 (amended by *subparagraph (iii)* of *section 17(a)* of the *Fines Act 2010*) of this Act.”.

Amendment agreed to.

Section 17, as amended, agreed to.

Section 18 agreed to.

## SECTION 19.

**An Leas-Chathaoirleach:** Amendments Nos. 65 and 66 are related and may be discussed together by agreement.

Government amendment No. 65:

In page 19, lines 40 to 43, to delete subsection (2) and substitute the following:

“(2) In any particular case—

(a) the Courts Service shall not publish a person’s name and address pursuant to this section before the notification of the receiver under *subsection (2)* of *section 15* of the person’s failure to pay the fine by the due date for payment, and

(b) the Courts Service shall not publish a person's name and address in accordance with this section if, after the due date for payment but before the person's name and address are so published, the person pays the fine concerned.”.

**Deputy Dermot Ahern:** This relates to the name and shame section. Amendment No. 65 will ensure that if a person pays the fine after the due date for payment but before his or her name is published, the name and address will not be published. In the case of publication on the Internet, amendment No. 66 will oblige the Courts Service to erase the reference to the default in any particular case after eight weeks or if and when the fine has been paid, whichever is sooner. For example, as soon as an offender has failed to pay by the due date, his or her name could be published as a fine defaulter. However, a period of approximately eight weeks will elapse before the receiver is sent notification of the default from the Courts Service. During that period more efforts will be made to have the fine paid through a series of reminders. If the offender pays within the eight weeks, his or her name will at that point be removed from the list and if he or she does not pay, the name and address will be removed in any case after eight weeks.

Amendment agreed to.

Government amendment No. 66:

In page 19, between lines 43 and 44, to insert the following subsection:

“(3) The Courts Service shall remove the name and address of a person published in a list referred to in *subsection (1)* on the internet—

(a) not later than 8 weeks after they were so published, or

(b) if the person pays the fine concerned before the expiration of that period, upon the payment by the person of the fine,

whichever occurs earlier.”.

Amendment agreed to.

Section 19, as amended, agreed to.

Section 20 agreed to.

Title agreed to.

Bill reported with amendments.

**An Leas-Chathaoirleach:** When is it proposed to take Report Stage?

**Senator Denis O'Donovan:** On Wednesday, 5 May 2010.

Report Stage ordered for Wednesday, 5 May 2010.

### **Smarter Travel Initiative: Motion**

**An Leas-Chathaoirleach:** I welcome the Minister of State, Deputy Cuffe. I believe this is his first occasion in this House since his appointment. I congratulate and wish him the best of luck in his term as Minister of State.

**Senator John Ellis:** I move:

[Senator John Ellis.]

“That Seanad Éireann welcomes the progress being made on the Government’s Smarter Travel Initiative.”.

I also welcome the Minister of State to the House on this, his first occasion. I wish him well. I have no doubt his talents will be well used in the Department and that what he proposes will no doubt be in the best interests of future generations rather than the present one.

**Senator Diarmuid Wilson:** I second the motion.

**Senator Paschal Donohoe:** I move amendment No. 1:

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

“notes that:

- the capital city still does not have a high speed integrated and sustainable public transport system to entice commuters from their cars to reliable public transport;
- Dublin Bus is taking more buses off the road and reducing routes, therefore cutting services to local communities;
- the Government has failed to implement its planned policy on bus competition;
- the integrated ticketing scheme has still not been completed ten years after its announcement;
- sustainable travel projects such as bus park and ride, real time information and metro north are stalled after a decade of planning;
- there is a clear inability of our transport bodies to turn strategy into action;

considering that:

- billions of taxpayers money has been spent on infrastructural projects in the transport sector;
- the subvention to Dublin Bus has more than quadrupled in 10 years to €82.4m in 2009;

calls on the Government to:

- honour its commitment to provide commuters with a real alternative to the car;
- ensure Dublin Bus publishes in full its recent Network Review; and
- allow private public transport operators to enter the bus market.”.

I also welcome the Minister of State to the House. I believe this is his first appearance here. I know he has considerable interest and expertise in these areas. I wish anybody well who has come into ministerial office for the first time after a time in the Dáil. I hope it is successful for him.

It is timely to consider a survey published over the weekend by TomTom, the company that makes satellite navigation systems for cars. It conducted a survey of 59 cities across Europe with a population of more than 500,000. It analysed the cities that suffer most from traffic congestion issues. Out of the 59 cities analysed, Dublin was sixth worst in terms of the time

lost in-car and the amount of time commuters must spend unnecessarily as they go about their business.

I want to raise four themes to which I would like the Minister of State to respond: the status of integrated ticketing; the recent announcements from Dublin Bus about the withdrawal of buses; the integration of planning and transport introduced under the national transport authority Bill; and the status of Transport 21 and how those projects stand.

Experts in transport planning frequently state the most important aspect of public transport, once different modes are available, is to deliver integration so people can move from one mode to another. Given the increase there has been in the varieties of public transport since the introduction of the Luas, the introduction of integrated ticketing has never been more important. The track record of the Government, however, on integrated ticketing, both in terms of cost and delivery, is a joke. In 2000 the then Minister for Transport made the commitment that integrated ticketing would be rolled out and the first deadline for delivery of that project was 2002. It is now 2010 and there is no sign of the project being rolled out across the entire country. There is a promise of some phasing but, by this stage, given the increases in public transport modes, the idea that a person cannot move from bus to train to Luas is a disgrace.

By the time the project is up and running, the cost is likely to exceed €55 million. The taxpayer has already spent in excess of €30 million. The project is eight years behind schedule and, given that nothing has happened, the costs are going up year on year. There was a report in *The Sunday Times* at the weekend that targets that were being set for the delivery of phased integrated ticketing in the second half of this year were unrealistic and would not happen. Does the Minister of State expect to see the roll-out of integrated ticketing in the second half of the year? Where will it happen, will it be in Dublin alone or will it happen elsewhere? How much will it cost? If we find ourselves moving beyond 2010, the phasing that has been pointed to as vital to deliver the national roll-out of the project will not happen and we will face a further delay. I was concerned to see a report in *The Sunday Times* that claimed further delay is likely.

What is happening in Dublin Bus is topical. This is not just an issue for Dublin Bus because when it makes an announcement, a similar announcement is usually made by Bus Éireann soon afterwards. This is confined to Dublin at the moment but Bus Éireann faces the same pressures and it is likely it will have to put in place a plan to respond to the commercial pressure it faces. Dublin Bus has stated there will be a further reduction of 90 buses following a reduction last year. Despite that reduction, it does not expect to see any change in the frequency and quality of service made available to commuters.

The bus levels in Dublin will fall back to those of 2001 and 2002. Since then we have doubled the amount of money available to Dublin Bus, from €40 million to €80 million. The subvention made available to that company has doubled across the time the number of buses has decreased. It will be difficult for the Minister of State's Department to enjoy the credibility it wants in sustainable transport if, at the same time, the number of buses on the streets is decreasing. The Minister of State should make a statement this afternoon about the Department of Transport's intentions on this, publish the report underpinning the decisions that have been made and examine the putting in place of the legislative changes that would process the applications from private operators who wish to provide services separate from Dublin Bus. We have operators who have been waiting for a decision on a licence from the Department of Transport for up to four years. That must be addressed.

There are many projects in Transport 21 that are moving quickly through the planning phase, such as metro north and the Dublin interconnector, but there has not been a recent statement from Government about the capital funding and support necessary for the delivery of those

[Senator Paschal Donohoe.]

projects. Every public reference tells us they are in the planning phase and the Government will not make a decision until planning is complete. There is little point moving through the entire planning phase if the capital requirement needed to get the public private partnership off the ground is not in place.

I wish the Minister of State well. His job is needed to deliver the necessary integration. The record until now has not been good and I hope the Minister of State will change that. I await a detailed response on the status of integrated ticketing.

**Senator Paudie Coffey:** I second the amendment to the motion and welcome the Minister of State to the House. He faces huge challenges and I wish him well as he addresses them.

Smarter travel initiatives are a challenge. We are a small island but those from mainland Europe or the United States who come to Ireland find it difficult to get around. That is the sad situation in which we find ourselves, lacking an integrated public transport system of which we can be proud. In some areas we have good public transport systems but they operate in isolation and there is no planning for how they might interact with other transport agencies or the communities they are meant to serve.

Sustainable transport is a buzzword but sustainability depends on a number of factors: accessibility, interconnectivity, including integrated ticketing and the connection of physical locations, and viability in order that the public will use it. There are rail, bus, light rail, city bus and rural transport operators. That is very important in a country such as Ireland. Public transport must be attractive to entice people to use it. By that I mean that, first and foremost, it must be accessible. Main public transport facilities such as railway stations must be accessible. In addition, the various services which operate from those stations must offer timeframes to suit those most likely to use them, namely, commuters. Services must run at times that will suit people for getting to work, college or school and then home. There is no point in running services late in the morning when most commuting has already happened. Much of the time service operators, semi-State bodies in many cases, miss that fundamental point and arrange services around schedules that have been in existence for generations. They do not look to see how Ireland has changed or how the movements of the public work, in college and work schedules and in factory flexitimes. Many people work to a 24-hour shift nowadays, starting earlier than the normal 8 a.m. or 9 a.m. shifts and working for 12 hours.

I do not say the Minister will arrive at a transport system that will suit everybody but we should be looking at and analysing the volumes of people who are in most need of public transport. These basic issues of accessibility should be studied and analysed before any planning is done so that we can have the facts. Then when it comes to planning it can be done with proper information and the result will resonate with the public and entice people to use public transport.

Another area to note concerns the basic comfort levels of public transport. Much of our rolling stock and railway tracks has improved and improvements were made under Transport 21 resulting in the introduction of new carriages. However, for a long time many of the older carriages used to rumble along substandard railway tracks and only now are we starting to get to grips with those. Unless people have a pleasurable and comfortable experience travelling they will not use the service again. That must be taken into account and there must be adequate basic facilities on a train or a bus, whether toilet facilities, food service or comfort stops along the way in the case of bus transport. It is noticeable there are no rest stops on many of our motorways. I wonder where many of our public bus fleet and private bus operators will pull over for comfort or toilet stops or even for coffee because there is a large network of motorways

throughout the county with little or nothing in the way of motorway service stations. That again is a basic and fundamental omission and it should be addressed in policy and by Government.

The rail issue is very important. I acknowledge the work that has been done on the western rail corridor. It is important we preserve our national railway corridors and it was a very great mistake to close some of these in the past. One I know well, the Waterford to Cork line, was closed and it would obviously be very difficult to open it again.

The Minister of State will be aware that the Rosslare to Waterford railway line is under threat at present. I have no problem saying publicly that this railway depended very much on the beet and sugar industry which is more or less gone now, as we in the south east are aware. This is a challenge, not only to Government but to the wider public and those lobbying to keep the line open. It is one of the worst railways in the country in terms of conditions and standards and is not utilised as much as it should be. Here we have a relatively low-grade railway that is not being utilised fully so why should we not turn the issue on its head, acknowledge the challenge, promote the line and develop it to maximum efficiency? We should reschedule and size the service to accommodate those most in need.

I shall give an example. The railway passes very close to Wexford town on its way to Rosslare. It could be extended very easily to the north of Wexford town where a park and ride facility could be installed. That facility could then be utilised by the people of Enniscorthy and Wexford, of whom significant numbers work or go to college in Waterford city. That is a practical example. Those people could come and park their cars early in the morning in the park and ride facility at Wexford town and use the railway to get to Waterford city.

Again, it is a matter of integrating ideas and planning and looking outside the box. However, Iarnród Éireann is taking the easy option in this instance by closing the railway and deeming it unviable rather than looking at the positive and interacting with other local authorities and agencies to see how it could build up this service, take people off the roads and make it work. That is only one example but one well worth looking at. It could be used as a model in other areas of the country to promote and encourage the public to use railway services.

That concerns the railway alone and I shall not speak more about it. However, I have put a practical proposal to the Minister of State that should be considered. He might say, as might the Minister for Transport, Deputy Dempsey, that railways are the responsibility of Iarnród Éireann. That is the case but Iarnród Éireann is a semi-State company directed by Government policy and Government policy should consider initiatives such as the one I gave in an attempt to encourage more railway use. That would be important.

Before I move away from the railway issue, I point out that I use the Waterford to Dublin line to a great extent. Accessibility is very important. However, there is not even an automatic ticket machine at Waterford railway station although it is the capital of the south east. If I book on the Internet I must go through manual procedures to get my ticket whereas if I book from Dublin I just put my credit card in the machine and my ticket comes out. Basic electronic facilities of this kind should be in all our major railway stations and it behoves Iarnród Éireann to develop them without leaving out major stations.

**Acting Chairman (Senator Michael McCarthy):** The Senator's time is up.

**Senator Paudie Coffey:** I will not say much more than that. I had wanted to speak about the cuts in bus services in rural Ireland because they are having a deep impact. People have no access to public transport and are using their cars more because Bus Éireann has cut some very popular services. I could mention Waterford again and services to towns such as Cappoquin, Lismore and Tallow. These were served by Bus Éireann on the route between Waterford and Cork but they are no longer so served and people are using their cars more. It is a great pity

[Senator Paudie Coffey.]

we are denuding and cutting back those services when we should be trying to encourage more use of public transport.

**Deputy Ciarán Cuffe:** I thank all the speakers for their kind words of welcome. I welcome the opportunity to update Senators on the issues of smarter travel in general and public transport in particular, to outline for the Members how both these areas form a core part of this Government's transport policy and to explain our objectives. I also hope to address some of the points made in the contributions and shall also take the opportunity to outline what is happening in the related planning area of my particular brief.

Smarter travel is a new way of thinking about travel and transport in Ireland and public transport is a key element of that. In neither area can change be delivered overnight, but progress is none the less steady and apparent. I shall speak first on the smarter travel policy and then follow up on the particular issues raised by Senators in regard to public transport and Dublin Bus.

As Members will be aware, the smarter travel policy, A Sustainable Transport Future, was launched early last year as the Government's new transport policy up to 2020. Its aim is to set the overall vision for sustainable transport and a framework for action by the main players. That vision focuses on changing the way we think about and make policy for mobility, travel and transport matters. It encompasses the entire concept of people and goods moving from one place to another by walking, cycling, public transport, car journeys and movement of freight. It also concerns culture and behavioural change — where we live, how and why we travel, and choosing sustainable options. It puts transport within the sustainable agenda on issues such as reducing congestion and emissions, improving air quality, enhanced competitiveness, health benefits, and overall quality of life. It seeks to deliver a more rational and healthy, more environmentally friendly, more competitive and more quality focused society. This means thinking about mobility rather than transport and involves changing how we plan transport. It means more walking, cycling and use of public transport, a decrease in car modal share from 65% to 45%, reducing the need to travel, and promoting eco-driving and the sustainability of the road transport fleet, for example, cars and freight.

As a nation, we have become dependent — in some respects over-dependent — on the private car to meet our transport and travel needs. We are becoming increasingly choked by cars on our urban roads. If trends continue, average speeds in urban areas in morning peak hour in Dublin will have dropped from 13 km/h to 8 km/h by 2016. The smarter travel message is not about banishing the car but, among other issues, involves considering what we use cars for, what is necessary, what can be replaced, and how we might develop a blueprint for a much better travel and transport system for Ireland in the future. Cars will continue to play a key role in transport in the future, but that role will be different.

Senator Coffey quoted the TomTom travel survey. I suspect the travel information for the survey came from TomTom GPS devices installed in private cars. However, I am more interested in improving quality and travel times for everyone, not just those who use a private car. If we were to use travel times for those who use slower modes such as walking and cycling, as well as those for who use public transport, we might get a slightly different figure. The smarter travel initiative is about improving transport choices for all, not just those who travel by private car.

There are alternatives. Bus services have seen significant investment in recent years. We have also invested heavily in excellent commuter rail services and Luas. Within the past six months on the DART network off-peak travel frequencies of 15 minutes have been introduced. I remember the days a year and a half ago when a person could arrive at a DART station and

see a sign indicating the next DART was due in 23 minutes. Trains now arrive every 15 minutes off-peak, which is a significant step forward that puts the DART in the same league as Luas. One brilliant aspect of Luas is that the service is well used off-peak because the level of frequency is high, at less than one every ten minutes. There is no timetable because the trams travel so frequently. I want to see this replicated around the city.

We can consider the smarter travel initiative one year on. It is a long-term policy, but we are already seeing positive results. In the first phase the focus of the policy is on a number of key issues, including progressing cycling and walking policies; starting demonstration projects; progressing schemes for school and workplace mobility; developing guidelines for both transport and spatial planning; commencing the transformation of bus services; researching appropriate fiscal measures to promote sustainable travel; and setting up new institutional arrangements and making legal changes. More detailed information is available on the Department's smarter travel website, [www.smartertravel.ie](http://www.smartertravel.ie). Overall, seven of the 49 actions listed have been delivered and there has been progress on a majority of the others, with sound progress being made on 33.

The Department recognises that changing culture and behaviour is the key to embedding an ambitious and challenging sustainable transport and travel agenda. This is not a simple task, but our focus has been on supporting a range of pilot and demonstration projects to show people what works and on developing a cycling and walking culture, particularly in schools but also among commuters and leisure users. We work with partners such as the local authorities, Departments and agencies and other groups.

I will outline for Members some of the main areas in which progress is to be made in the first year. I might stand up in outlining them, as I understand the protocol is that I should stand when speaking.

**Acting Chairman (Senator Michael McCarthy):** I thank the Minister of State.

**Deputy Ciarán Cuffe:** I hope I have not offended anybody but no one brought it to my attention.

**Senator Paudie Coffey:** The Minister of State was saving energy.

**Senator Niall Ó Brocháin:** Smarter travel.

**Deputy Ciarán Cuffe:** I was saving energy.

**Senator Paudie Coffey:** The Minister of State is absolved.

**Senator David Norris:** It is the content of the Minister of State's contribution that is important, not his posture.

**Deputy Ciarán Cuffe:** I am delighted to have the Senator in attendance and contributing to the debate. I look forward to my colleagues being in attendance to hear his contribution as, unfortunately, I have to attend a parliamentary party meeting at 6 p.m. However, I will do my best to finish my contribution.

The first national cycle policy framework has been published and progress is being made on a range of actions, including the first ever all-Ireland bike week and the commencement of the national cycle network project. I am glad to say that this afternoon I have overseen the provision of 16 new cycle parking spaces outside my Department on Kildare Street. That sends a nice message that we are providing the nuts and bolts needed to assist the cycling project. There has already been success with the dublinbikes scheme in Dublin. It has been an outstand-

[Deputy Ciarán Cuffe.]

ing success. I am sure many Members have the smart card which allows usage of the scheme and I have found it an excellent way to get around the city. On the rare days when I do not have my own bike with me I use the scheme. I spoke to people in Dublin City Council about it earlier and the amount of journeys has exceeded all expectations; it is the most successful bike sharing scheme in western Europe. The figures speak for themselves; they show the scheme has worked very well. I pay tribute to Dublin City Council for its work in this regard. I was initially sceptical of the deal with JCDecaux, but I have seen the results on the ground and I am delighted with the significant increase in the numbers cycling in Dublin.

We have also begun preparations for a national walking policy which might strike people as a little curious. We have to look at what can assist people in allowing them to walk, whether it be an increase in “green” times, providing further crossing points in our cities, towns and villages or ensuring there are pedestrian operated signals at crucial points within areas. The green schools travel programme had reached 144,000 schoolchildren in 482 schools by the end of 2009, yielding an average reduction of 18% in the number of children travelling to school by car. This equates to a saving of 100,000 car trips per annum. I do not want to bore Senators with statistics, but the overall conclusion is that the programme is working. Those familiar with schools participating in it know it has been a brilliant success. We are also developing a national cycle competency accreditation scheme for schoolchildren.

We have 65,000 employees in 30 organisations participating in the National Transport Authority workplace travel schemes, with a 16% reduction in the level of car usage. There is a national programme which targets a figure of 250,000 employees up to 2012.

South Dublin County Council commenced a pilot personalised travel plan for Adamstown, while we have a pilot cross-Border car-sharing scheme in counties Derry and Donegal. We have the sustainable travel demonstration project fund with €15 million to be allocated over five years and 30 projects approved for funding. A sustainable travel demonstration areas fund of €50 million to be allocated over five years was also put in place. The names of some 39 areas have been submitted by local authorities for funding, with 11 potential schemes being short-listed and the final selection to be made in June.

We need new institutional arrangements and legal changes which I am glad to say are happening. The national sustainable travel office was established in the Department, while an interdepartmental steering group is in place to oversee progress on all of the actions listed in the smarter travel initiative. We have a local authority network to liaise on issues of common interest and co-ordinate delivery at local level. I met its members when they came to the Department two weeks ago. There was tremendous enthusiasm among the local authorities, which is where we will see the benefits. It is up to them to move ahead. The point I would make in my new position is that for a very small investment, we can reap enormous dividends in both cycling and walking. Local authorities understand the message and are putting their money where their mouth is.

The Public Transport Regulation Act 2009 is one of the most ground-breaking pieces of legislation since the earlier enabling legislation was enacted in the 1930s. I am glad we have updated it. We have established the National Transport Authority and the Planning and Development (Amendment) Bill 2009 is before the Oireachtas. We have put in place guidelines for sustainable residential development in urban areas to get away from the low density developments of previous years. I remember hearing the author Colm Tóibín talk about public transport some 20 years ago. He said that if people had a front, back and side garden, there was no way there could be decent public transport services. I agree with what he said. The essential point is that we need the required densities. It is very hard to deliver good public transport services if we do not have them in the first instance.

I am glad to say the National Transport Authority is finalising a new cycle design manual. It has been a long and sometimes painful gestation period of over eight years. We have a draft document that is approximately 400 pages long, but I do not want to throw the baby out with the bath water. It is a good document and I want to see it come to fruition later this year.

We have guidance developed by the Department, the National Transport Authority and the quality bus network project office on provisions for cyclists in the design of quality bus networks. There is an urban street design manual being prepared. The UK streets manual is an excellent document which shows how we can produce a decent quality environment in our towns and cities without having the cattle-grid crossing points I have seen far too often. I want to get away from this thinking and make the pedestrian king, with the cyclist second-in-command. I also want to make provision for cars and public transport services, but we must get the balance right. We must have everyone in his or her proper place in the transport spectrum.

The Department has made submissions to regional authorities as part of the public consultation process on draft regional planning guidelines, in which it has emphasised the importance of the integration of transport and land use planning.

We introduced the tax-saver scheme for cycling. We do not have records on it, given that it depends on employer compliance, but one can look around towns and cities at the number of thriving bike shops. This shows that the bike to work scheme is reaping benefits. In the Department of Transport, many of my colleagues are taking advantage of the scheme. It is working well.

We introduced a carbon tax in the December 2009 budget as a necessary part of facing up to climate change. The Central Statistics Office, CSO, is commencing the first household travel survey to establish base line indicators for monitoring the smarter travel policy. The National Transport Authority, NTA, has commissioned a major study of freight and goods movements to establish existing patterns and operations. This long list gives Senators a flavour of what has been done so far in a short timeframe and shows that the Minister, Deputy Dempsey, and I are committed to delivering on the smarter travel agenda.

I wish to remark on the enhancement of the public transport system, which is at the heart of the sustainable travel agenda. Notwithstanding the real challenges that the Government faces in the current difficult economic climate, we remain committed to providing the infrastructure and services required to deliver a modern, high-quality public transport system. This has been demonstrated by Government support for bus services in the form of €82.4 million in Exchequer subventions in 2010.

In recent months, investment in infrastructure has seen the opening of the Luas extension to the docklands and phase one of the western rail corridor. I am glad to say I attended both openings. They were joyful days, as local people and visitors to the Point were delighted to see the extension of the Luas into the docklands. Harry Crosbie is grinning from ear to ear on this one. At a more practical level, the new and old communities in the docklands are delighted to have the Luas extension.

**Senator David Norris:** He deserves to grin. He took a hell of a lot of risks.

**Deputy Ciarán Cuffe:** He did. He has been a real risk taker and one must compliment risk takers, but one must also compliment local communities on their lobbying for the extension into their areas.

**Senator David Norris:** Yes.

**Deputy Ciarán Cuffe:** I look forward to welcoming the Luas extension to Cherrywood in south County Dublin in my constituency in the coming months.

Planning on the DART underground continues. I note Senator Donohoe's frustrations in this regard but, as he well knows, I cannot seek to influence An Bord Pleanála under the legislation, nor can my colleague, the Minister for the Environment, Heritage and Local Government, Deputy Gormley. Were I to engage in lobbying on this issue or any planning case before the board, it would be wrong. I share the Senator's frustrations. A railway order application for metro north is expected in the coming months and I want to see both projects delivered in a timely fashion. I look forward to them occurring.

Dublin Bus is undertaking the largest redesign of its network in the history of the company. The objective of the redesign is to provide current and future bus customers with a modern, accessible, integrated, easy to understand, punctual and frequent service. The redesign will deliver real and tangible benefits to the majority of bus users. Just over one year ago, I put my words in respect of Dublin Bus on paper in the public media. Since then, I have met Dublin Bus six times. Each time, I stressed the importance of the network's redesign. I was taken aback by the fact that the Fine Gael transport spokesman in the Seanad would refer to the network redesign as "barmy". The redesign of an antiquated network that in many cases is based on——

**Senator Paschal Donohoe:** I did not say that. I made a point of asking the Minister of State to deliver——

**Acting Chairman (Senator Labhrás Ó Murchú):** Let us hear what he has to say, please.

**Senator Paudie Coffey:** The Minister of State should get his facts straight.

**Deputy Ciarán Cuffe:** I beg the Acting Chairman's protection.

**Senator Paschal Donohoe:** —the same service.

**Acting Chairman (Senator Labhrás Ó Murchú):** The Minister of State without interruption, please.

**Senator Paschal Donohoe:** I did not say "barmy".

**Senator Paudie Coffey:** That is right. The Minister of State should get his facts right.

**Deputy Ciarán Cuffe:** In many cases, the network is based on the tram lines that were in operation in the early years of the 20th century. It is time to move forward.

**Senator Paschal Donohoe:** I asked how one could deliver the same service with fewer buses given that the funding to Dublin Bus has doubled. The Minister of State should answer this question. The money Dublin Bus has received since 2000 has doubled from €40 million to €80 million.

**Acting Chairman (Senator Labhrás Ó Murchú):** Senator Donohoe has already spoken and been given an opportunity to make his point. It is the Minister of State's turn.

**Senator Paschal Donohoe:** He is misquoting me. I am taking this as an opportunity to put my question to him again. If he will not answer a point I did not make, then he might answer a point I did.

**Deputy Ciarán Cuffe:** Pardon me for speaking while Senator Donohoe is interrupting, but I will quote him. He stated:

Dublin Bus is supposed to be providing customers with “Smarter Travel”. But there’s little that’s smart about its plan to take 90 buses off the roads. It claims passengers will have a better service with fewer buses. That is barmy.

The bigger picture is that of Ireland going through a challenging economic period. We have needed to reduce current and capital spending on roads and buses. We do not have a magic wand. If I had one, I would put more bus services in every hamlet in the country. We do not have that type of funding. We must get Ireland out of its economic difficulties and, in doing so, provide better public transport. I am convinced that Dublin Bus is facing up to the route network redesign and the snail trails that go half way around the country before entering Dublin city. We must straighten out the routes and provide a higher quality service on those routes that are well used. In my area and many other areas, I am glad to say the resultant bus network will be streets ahead of what has been in place for half a century, if not longer. It will be much better placed to cope with the growing suburbs of Dublin, whether in north Clondalkin or Loughlinstown.

I have examined the route network redesign in detail and sat down with Dublin Bus many times. On balance, it makes sense to ensure we get out of our economic difficulties and, in doing so, provide a bus network that is better placed to meet the transport needs of the 21st century. This is what it is all about. I am convinced Dublin Bus is taking the right steps to get more passengers on board at a time when retail spend has decreased and unemployment has increased. We must face up to such challenges.

There will be a doubling of routes with frequencies of ten minutes or better.

**Acting Chairman (Senator Labhrás Ó Murchú):** I do not like cutting across the Minister of State, but he only had 15 minutes. He has much important information, but other speakers are waiting. Perhaps he will bear this in mind.

**Deputy Ciarán Cuffe:** I will. Would another five minutes be okay? I am in the Acting Chairman’s hands.

**Acting Chairman (Senator Labhrás Ó Murchú):** The Minister of State might keep his contribution as short as possible.

**Senator David Norris:** On a point of order, the Minister of State has important comments to make. Would it be possible for them to be taken as read and included in the record if he has not finished after five minutes? Could we ask that they be taken as read and published, as they will have been circulated?

**Senator Niall Ó Brolcháin:** On a point of order, he should be allowed to get on with it.

**Deputy Ciarán Cuffe:** Five minutes should suffice. The Senators do not know how quickly I can speak. Some 60% of customers will be carried on high frequency routes. The current figure is 23%. There will also be increased interchange opportunities with DART and heavy and light rail services. The redesign will reduce the lay-over of buses in the city centre and improve traffic flows, thereby leading to an improved city centre environment. Complementary measures supporting the quality of services to customers will also be introduced during 2010. Real-time passenger information is on the way and will be available by mobile telephone and also at 500 on-street signs. I hope that software developers, such as those involved in the iPhone and other telephones, will put in place the kinds of applications that will allow customers to

[Deputy Ciarán Cuffe.]

see what is occurring in real-time. The initial phase of the project will be delivered by the end of the year.

Another important initiative to enhance the quality of the service for users of public transport is integrated ticketing. This project, which will integrate smart cards on Iarnród Éireann, Luas, Dublin Bus, Bus Éireann and private bus operator services, continues to progress well and rigorous testing of the system is under way. I was privileged to receive and use an Iarnród Éireann smart card in recent weeks. It beats looking for a handful of change when getting on a DART that is pulling into the station. This project continues to be rolled out and those smart cards are now available from on-line vending machines.

Subject to successful testing, Dublin Bus and Luas annual pass holders will be migrated to integrated smart cards from late summer of this year. This will be followed by a similar exercise for ePurse or pay-as-you-go users of Dublin Bus and Luas services when the scheme is sufficiently robust. The last thing we want to do is roll out a scheme that might experience difficulties. We want to get it right. The smart card will be rolled out to cover services provided by private operators, Iarnród Éireann, DART, commuter rail services and Bus Éireann following completion of the necessary development, testing and commissioning of the systems.

We also have a new bus licensing regime. These initiatives have been supported by institutional and regulatory reform in public transport. The Public Transport Regulation Act 2009 reforms the bus licensing regime for the commercial bus market, replacing the Road Transport Act 1932. The new regime, to be administered by the National Transport Authority, provides a level playing field for all bus market participants, public and private, and will foster a competitive market that best serves the needs of bus users. There are some great private operators in my constituency. However, the last thing we want is for people to cherry-pick in respect of the most successful routes. That is an important point to make to those in certain parties which have advocated in favour of a sweeping privatisation process.

**Senator Paschal Donohoe:** No, we have not advocated that.

**Senator Paudie Coffey:** The Minister of State is wrong again.

**Senator Paschal Donohoe:** Yes.

**Senator Niall Ó Brolcháin:** The Minister of State did not refer to any particular parties.

**Senator Paudie Coffey:** On a point of order, I had a great deal more to say during my contribution. However, I was obliged to adhere to the rules of the House and cut my remarks short.

**Acting Chairman (Senator Labhrás Ó Murchú):** I am going to ask the Minister of State to conclude.

**Senator Niall Ó Brolcháin:** In fairness, this is an important debate and the Minister of State should be allowed to continue.

**Deputy Ciarán Cuffe:** Before concluding, I wish to update Senators on a number of planning and development issues.

**Senator Paudie Coffey:** On a point of order, it might be better if the Minister of State spent more time answering questions we put to him rather than reading a spiel into the record. A great deal of what he has said is interesting and very good.

**Acting Chairman (Senator Labhrás Ó Murchú):** The Minister of State is going to conclude.

**Deputy Ciarán Cuffe:** I have a number of important points to make.

**Senator Paudie Coffey:** I am sure they are very important but the Minister of State just does not have the time to read all of them into the record.

**Deputy Ciarán Cuffe:** Let us discuss planning and development issues, which tie in closely with transportation.

**Senator Paudie Coffey:** On a point of order, the Minister of State has had more than enough time in which to make his contribution.

**Acting Chairman (Senator Labhrás Ó Murchú):** I have asked him to conclude.

**Senator Paudie Coffey:** We were not granted the same amount of time in which to express our views. With respect, the Minister of State has made some good and relevant points but his time is now up.

**Deputy Ciarán Cuffe:** I will have the remainder of my script included in the Official Report, if that is in order.

**Acting Chairman (Senator Labhrás Ó Murchú):** The Minister of State has a constitutional right to put forward his views but there is a standing order which restricts him to 15 minutes. I am, therefore, caught between those two considerations. The Minister of State is about to conclude in any event.

**Deputy Ciarán Cuffe:** I will be finished in 60 seconds.

It would be remiss of me not to mention the national spatial strategy, NSS, review and outlook. As stated earlier, there is a strong connection between proper planning and public transportation. We are updating the NSS in order that we might focus to a much greater degree on the gateway cities and hubs. We are continuing to roll out Transport 21. The new Planning and Development (Amendment) Bill, in conjunction with the White Paper on Local Government Reform, represents a new deal. These various initiatives are connected to each other in the context of delivering smarter travel at local level. They will assist in reducing emissions and increasing access for communities throughout the country.

The core strategy is particularly important in the context of the gateways, hubs, county towns and the other key urban areas identified in the NSS. We want to ensure a much greater level of co-ordination among the HSE and the Departments of Education and Science, Transport and Environment, Heritage and Local Government in respect of the rural travel programme. The manual for streets will be crucial in the context of future development.

I have covered a wide range of issues of interest to Senators, which illustrates both the commitment of this Government to smarter travel, public transport and the planning and development agenda and the real progress that has been made. I, therefore, support the motion. I thank Senators for their comments and for listening to me.

**Senator David Norris:** I welcome the Minister of State and congratulate him on his appointment to the Department of Transport. Before he leaves the Chamber, I wish to comment on his observations regarding a hierarchy with pedestrians are at the top, cyclists next and then motorists. There is a degree of discrimination against motorists, which is regrettable. I live in the north inner city and it is virtually impossible for me to drive anywhere in a rational, joined-up or smart manner. On a wet day or if I have heavy documents to bring with me to Leinster

[Senator David Norris.]

House, I cannot drive from North Great George's Street to Kildare Street because it is not possible to turn right or left at certain points, because one is directed to move in a particular direction and because of the existence of the bus gate and the idiotic 18 mph speed limit. That is not safety. Any taxi driver will inform the Minister of State that the roads are not safer because the slow speed limit increases people's propensity to jaywalk.

**Deputy Ciarán Cuffe:** I rarely disagree completely with the Senator but in this instance I must do so.

**Acting Chairman (Senator Labhrás Ó Murchú):** Senator Norris must be allowed to make his contribution, without interruption.

**Senator David Norris:** I am merely outlining my lived experience.

**Deputy Ciarán Cuffe:** As a parent of young children, I take exception to the Senator's remarks.

**Senator Paudie Coffey:** The Minister of State had plenty of time in which to make his contribution. He should listen to the Senator.

**Acting Chairman (Senator Labhrás Ó Murchú):** Senator Norris, without interruption.

**Deputy Ciarán Cuffe:** I apologise for intervening.

**Senator David Norris:** The facts do not support the argument that there is any real concern for mortality in the inner city. To have cars moving around the city at a crawl is absolutely idiotic. The position with regard to traffic speeds is chaotic. In Tallaght, for example, there is a three-lane highway on which a speed limit of 60 km/h applies. People could easily drive their cars at speeds of 100 km/h or 120 km/h on that stretch of road. When one comes off the highway to which I refer, one goes straight onto a winding, dangerous country road on which a speed limit of 100 km/h applies. That is insane. Further consideration must be given to this matter.

Before the Minister of State departs, I wish to raise one further matter with him, namely, integrated transport and not just in this country. I have just returned, with some difficulty, from the island of Cyprus. Once again I was obliged to travel through Gatwick Airport. I decided to try to use the international flight connections at that airport because my time was so short. I made all the necessary arrangements but when I lifted the emergency telephone, I was informed that I could not use the service. When I inquired why that was the case I was informed that my flight to Ireland was domestic in nature. I thanked the person on the line for that really wonderful news and stated that when I left this country three weeks ago, it was called the Republic of Ireland. I asked whether, on foot of what I had just been told, the Republic had rejoined the British empire and indicated that Her Majesty would be greatly pleased if this were the case. He inquired as to what I meant and I informed him that either this country is a republic or it is part of the United Kingdom.

The Minister of State should try to take this matter up with the British authorities. What is happening is idiotic. Passengers are forced out of the relevant terminal and obliged to pass through customs, passport control etc., and must then undergo the same procedures again when they come to the next terminal. Why is that the case? It is just because we are Irish. That is not good enough. We should not be treated as second-class citizens at a major international airport in London.

**Deputy Ciarán Cuffe:** I thank the Senator. On the issue he raised earlier, I will passionately defend the 30 km/h speed limit until I am on my death bed.

**Senator David Norris:** Perhaps not when he is on his death bed, but we shall certainly find another opportunity to discuss this matter at a later date.

**Deputy Ciarán Cuffe:** Yes, perhaps we might discuss it on a subsequent occasion.

**Senator David Norris:** The Minister of State gave an indication of strong support on the part of the Government for the metro. That is extremely important. His replacement, the former distinguished Senator and now Minister of State at the Department of the Environment, Heritage and Local Government is aware that the metro project originated in this House some years ago, when some of us used an unusual political situation to put through the first legislative framework relating to it.

It is extremely important that the metro should proceed. However, I understand that difficulties have arisen in the context of planning. I hope the Government has taken on board the advice provided by Professor Manuel Maynar Melis who was invited to come here from Spain in order to give such advice. The Spanish authorities are able to proceed much more rapidly with the development of new metro systems because they have addressed, in legislative terms, all the difficulties that can arise in the context of planning, appeals, and so on. I hope the metro system will proceed as rapidly as possible.

I was surprised to hear a Minister of State from the Green Party refer to densities. He indicated that areas in which houses have back and front gardens and side entrances could not, because the densities are not high enough, support a metro or an underground system. I do not believe that is true. I am of the view that there is an adequate level of density in this city. The authorities in the city of Newcastle in England put in an underground system which became so successful that it made a profit and has now been bought by a major German combine. The metro is the way to go.

I do not necessarily believe the metro should be placed in conflict with Luas. The latter provides an interesting, comfortable but totally inadequate service. It can never be made adequate for perfectly demonstrable mathematical reasons. At our instigation, a model relating to the Luas was prepared by Dr. Garret FitzGerald and this demonstrated that it could not accommodate sufficient passengers as a result of the fact that too many intransigent variables formed part of the equation.

There are two Luas lines but these were never joined up. That was idiotic and it was certainly not smart transport policy. I was one of those who pointed out the shortcomings in this regard when the project was initially proceeding. I further highlighted the fact that not connecting the transport system directly to the airport was also somewhat idiotic. However, we are moving on and are working with a capable and energetic Minister of State in Deputy Cuffe. I do not always agree 100% with him but that is as may be.

We need to consider the comfort of passengers on the Luas. I recently had occasion to travel on both Luas lines and discovered that there is a noticeable difference between the red line and the green line. One has a much more civilised ride on the south side line that goes out to Sandyford, on which I believe there is greater supervision. I also have travelled on the line to Tallaght and from quite early in the evening there is a fair amount of aggressive behaviour on the trams, which is highly regrettable. People who are under the influence of drink or drugs make themselves obnoxious in various ways to other well-behaved passengers. I acknowledge there is some supervision and I pay tribute to the security officers on those trams but it must

[Senator David Norris.]

be upgraded. Such behaviour ranges from simple but annoying things like people ignorantly placing their feet on the seats right up to directly aggressive behaviour.

In respect of cars, I indicated that a kind of hierarchy existed. The Minister of State also talked about the carbon tax and during a budget debate a year or two ago, I made the point to his party leader, the Minister for the Environment, Heritage and Local Government, Deputy Gormley, that in respect of car transport, the Government should be increasing the price of petrol rather than increasing car tax on the basis that the polluter should pay. This is the single most efficient method of raising revenue and is the most environmentally friendly. In addition, the car scrappage scheme is a nonsense. As Ireland is not even a car manufacturing country, we do not get any benefit from their manufacture and from an environmental perspective, it is completely counter-productive.

As for cycle lanes, I welcome them although I have retired from cycling as I found it to be far too bloody dangerous in the city of Dublin. However, the Minister should review the cycle lanes because they are incoherent. They sometimes cross and merge with other transport planes in an incoherent fashion. Moreover, they travel a certain distance and then suddenly stop in the middle of nowhere. Consequently, this issue should be examined.

However, I welcome this debate and hope we will get a smarter transport system with fully integrated ticketing. I welcome both the extension of the DART to the docklands and the western rail corridor. There has been some progress and I encourage the Government to complete as soon as possible the work on metro north, which is a vital component of our transport policy.

**Senator Niall Ó Brocháin:** I thank Senator Norris in particular for his reference to the western rail corridor because in these debates, people sometimes have the view that public transport or transport in general ends at the border of the Pale, which it does not. I believe Senator Coffey also will attest to this.

**Senator Paudie Coffey:** I agree.

**Senator Niall Ó Brocháin:** I welcome the Minister of State, Deputy Finneran, to the House and it would be remiss of me were I to fail to congratulate the Minister of State, Deputy Cuffe, on his first visit to the Seanad. Unfortunately, he now has left the Chamber. In respect of smarter travel, I note that people frequently use the wonderful word “smart”. We are becoming a smart nation that has a smart economy, smart grids and smarter travel. Everything is smarter these days and I hope that is true. I believe smarter travel pertains to connectivity and the ability to move from one place to the next. I refer to my journey from my home to the Seanad. I live close to Barna on the outskirts of Galway city and get up at approximately 8 a.m. As I am obliged to travel by car to the railway station, I get stuck in a traffic jam for about an hour. Although it is not far to the railway station, it is too far to walk and unfortunately cycling is not easy for me because I must bring suitcases with me for my stay in Dublin. Consequently, I drive to and park in a quite expensive car park near the railway station, board the train and come up to Dublin. On arrival, thankfully the No. 92 bus brings me directly to Leinster House, which is very useful. A positive point nowadays is that one can buy a ticket in the railway station in Galway that allows one to travel on either the Luas or the bus directly to Leinster House and such connectivity constitutes an example of smarter travel.

Similarly, it used to be the case that visitors who arrived in Galway city by train and who wished to travel on by taxi found there were no directional signs in the railway station and consequently they would not know from where to get a taxi. As a result, they were obliged to walk out or to ask a person within the station where to get a taxi. They then were obliged to

take their suitcases across Eyre Square to reach the taxi rank. Thankfully, this has changed and one can now get a taxi at Eyre Square. This also is an example of smarter travel.

However, I believe there always is too great a focus on what goes on in Dublin. In common with many other Members, the Acting Chairman, Senator Ó Murchú, comes from elsewhere in the country. Such members can attest that in many parts of Ireland, smarter travel basically consists of hopping into a car because there is not much alternative. Therefore, as one discusses such wonderful types of smarter travel as bicycle lanes and bus lanes, one should keep in mind that for those with journeys of 30 km, it is not realistic for many people to travel on a bicycle on a wet day in the west. Moreover, it often is not realistic to get a bus to one's place of work because in many places no such service exists.

That said, matters are improving dramatically and I refer to a particular incident that took place during the big freeze earlier this year. I was invited to a radio debate on Newstalk, the studios of which are located in the centre of Dublin. I got the train from Galway to Dublin as usual and then got on the Luas which took me to the city centre to participate in this radio debate. However, I was amazed because two of my senatorial colleagues, who shall remain nameless and who were due to appear on that radio debate, could not attend because they were stuck. Although both were from Dublin, they got stuck where they lived and were unable to make it into the city centre. It is quite interesting that rail connectivity allowed me to get from A to B and that it was easier to get from Galway to Dublin city centre on the day of the big freeze than it was to get there from certain parts of Dublin. This was because Dublin was completely snarled up and its roads simply were not working on that day.

I also wish to refer to the western rail corridor, which definitely is part of a smarter travel initiative and I intend to refer to Senator Coffey's part of the world as well. It was a wonderful day for me when I sat with the Minister for Transport, Deputy Dempsey, and the Minister of State at the Department of Transport, Deputy Cuffe, on the very first train from Limerick to Galway, as I had been campaigning for it since the previous millennium. It is great it now is possible to get a train between the second, third and fourth largest cities in the country, as one now can travel from Cork to Limerick to Galway. It is absolutely unbelievable that so doing was not possible heretofore and that successive Governments had allowed a situation to arise whereby passengers simply could not travel by rail from Galway to Limerick and onwards to Cork. Thankfully, this has been remedied although there still is much room for improvement.

Amazingly, although one was told there would not be a great take-up for peak-time travel on the western rail corridor, Iarnród Éireann has found such predictions to be incorrect. Initially, it put a two-railcar train onto the mainline service between Limerick and Galway. Unfortunately, such provision was insufficient and Iarnród Éireann was obliged to put a four-car train on to the route at peak times. Even then, the company has found that many people are obliged to stand. It is incredible that Iarnród Éireann found that demand for the service from Ennis to Limerick completely exceeded expectations. The western rail corridor has completely exceeded expectations and is an enormous success. It was quite incredible that Ireland's transport planners were so wrong in this regard, when every local person in the west knew this would be the case.

However, no sooner has this service been put in place than the abolition of the service from Rosslare to Waterford has been proposed, which is an absolutely retrograde step. I urge the Ministers to think carefully about this and to consider the possibility of the timing of the service, as opposed to simply stating the service is not working and proposing to get rid of it. One must suit people and travel is all about what people want and about providing a service that is usable by them. It is not good enough to put on a bus service after the rush hour and then expect people to use it to get into town. For example, in certain parts of Connemara, the bus services

[Senator Niall Ó Brocháin.]

coming into Galway city do not arrive there until after work has started. As a result, there is not the same take-up of the service as there would be were the buses to run half an hour earlier. Moreover, all manner of anomalies arise in respect of school buses, in particular on foot of the catchment areas for schools, and this must be considered in the context of smarter travel.

I note the Acting Chairman has indicated that one minute remains to me. Like the Minister of State, I could speak all day on this issue. We will have to have another debate on this subject and I commend those who tabled this motion for debate.

No single bigger gain could be made in terms of smarter travel than the alleviating of traffic congestion in cities and towns throughout the country through the provision of improved and universal school bus services. The pinch point is rush hour traffic, with the large volume of vehicular traffic in most cities being the key problem. By the provision of school buses, we would reduce a great deal of traffic at rush hour in that parents would not have to drive their children to school.

In the city from where I come all the schools are located on one side of the river and all the industry is located on the other side of it. People travelling from outside the city often have to bring their children to one side of the city and then cross to the other side, which creates a traffic snarl up. If parents could put their children on a school bus, the city would not have half that traffic snarl up. The gain from such provision would be enormous.

I urge whoever will read the transcript of this debate, if anybody reads the transcripts of debates in this House, that it is important that we examine what has been done in this area in America and in other countries and that we examine the solution presented by the low hanging fruit in terms of connectivity by way of the provision of bus services to transport children and young people to and from school. If we could do that in the lifetime of this Government, smarter travel would be something we could claim to have achieved.

**Senator Brendan Ryan:** I welcome the Minister of State, Deputy Finneran.

Fianna Fáil Senators tabled this motion welcoming the progress being made on the Government's smarter travel initiative. The motion was formally moved but no evidence was provided to support what is claimed in it. The Minister of State responsible gave a long reply but there was nothing of real substance or significance in it. Fianna Fáil Senators are putting their hands out to be slapped on this one.

The transport policy, smarter travel — a sustainable transport future, when launched, was hugely disappointing and lacked new ideas, any specific targets, funding and credibility. It was filled with vague unachievable aims and recycled policies that had already been announced by a range of other Ministers.

The Labour Party has long campaigned for better integrated land use and transport planning, especially in terms of new residential developments. There was little in the document to achieve this apart from some pious aspirations about adding transport considerations to future planning guidelines and requiring developments above a certain scale to have “viable travel plans” in place. There were no strict prohibitions on massive developments going ahead without proper transport services being in place for new residents. There was a failure to suggest any concrete proposals on the critical development of the freight sector and instead the document suggested a forum to explore in greater depth issues relating to the movement of goods. Difficult decisions on possible fiscal measures were avoided.

The key aim of the document to achieve a modal shift away from cars completely lacked any credibility given that the Minister oversaw the most savage series of cutbacks ever visited upon public transport services. With the loss of up to 400 buses and 600 jobs at Dublin Bus and Bus

Éireann, the document is completely disingenuous to aim to expand and enhance rural and school transport services.

The section in the new policy on preparing for the successor to Transport 21 is a joke given that major infrastructural projects under Transport 21 are now in serious doubt. Astonishingly, there was little if any references throughout the document as to how the new policy will be funded.

Last year 11 Departments confirmed they have so far failed to rollout the cycle to work scheme. Under the 2009 budget the new cycle to work scheme was introduced to encourage more commuters to cycle to work by allowing employees a tax exemption for the purchase of a new bicycle or associated cycling safety equipment. A number of commuters have been in touch with me who want to cycle to work and have tried to access the new scheme through their employers, including Government Departments and agencies, yet last year several Departments failed to implement the cycle to work scheme. That was not very smart. Agencies under the auspices of the Department of Transport have been excluded from the scheme.

The 102 bus service in north Fingal in my constituency and other bus services were pulled by Bus Éireann under the current Minister's watch. How smart is that? Other Senators mentioned that the Waterford to Rosslare train service was pulled. How smart is that? Senator Ó Brocháin also challenged that decision.

There has been a reduction in bus numbers in Dublin Bus. How smart is that? The removal of 90 buses was announced by the company on 23 April. It is difficult to believe there will be an increased and efficient service due to these cuts, which are being implemented by Dublin Bus. How smart is it when the people of Donabate and Portrane have been told the bus service cannot be there to meet the train service because the Minister had decided that Irish Rail and Dublin Bus are to be in competition? Would the Minister of State agree that is quite basic integration? How smart is it when, despite a long-standing promise, a pedestrian-cycle path along the Malahide-Donabate railway line has not been delivered? How smart is it when the only time the people of Ballyboughal, Oldtown, Garristown and rural Fingal have seen Dublin Bus is when a driver got lost, despite the fact that the residents of Kildare, Meath and Wicklow have a decent service?

How smart is it when the people of north county Dublin now only have a Nitelink service on Fridays and Saturdays? Does the Government expect everyone to be in bed by 11 p.m. on the other nights of the week? What about nurses who work a block of weeks and then have a few weeks off? What about students who are studying late in the libraries in Dublin colleges? What about bar staff who must pay the cost of a taxi home after working late at night? How smart is all of that?

The introduction of integrated ticketing for all forms of transport has been on the horizon for close to 15 years and supported by all parties, but it has still not been delivered. How smart is that? What kind of progress does that represent? Government Senators, Fianna Fáil Senators in particular, are a bit premature with their self-congratulations. It is laughable.

The interdepartmental working group is supposed to report on the progress of this policy; it was stated, "We will require a biennial report on progress with the first report submitted to Government in 2010." When we will see this? Has any progress been made on it?

The Minister's list was much ado about nothing. Nothing of substance was delivered in the first year of this initiative, everything is still to be delivered in the future. It has been stated that we are going to do this and that, that is the objective, but nothing of substance has been delivered in the year.

[Senator Brendan Ryan.]

I am dealing with the motion in this way because Fianna Fáil Senators have congratulated themselves on what has been achieved. Little or nothing has been achieved in the first year of this initiative. There has been no significant programme and that is the only possible verdict on the smarter travel policy.

The Minister of State referred to the public bike scheme, for the introduction of which the Government may claim credit, but that was down to the Labour Party city councillors on Dublin City Council.

The section in the smarter travel policy document covering progress over the short, medium and long term, states that: “The first phase of implementing the policy will be mostly concerned with the setting up of new institutional arrangements and legal changes”. That is mainly administrative and I do not know if much has been achieved in that respect. I will have to rely on the Minister of State to clarify that. That section also states that: “A major challenge in the initial phase will be to commence the transformation of the bus service”. Admittedly they have been transformed; the number of buses available to Bus Éireann and Dublin Bus have been slashed. That it is a major transformation and likely to produce progress and smarter travel is beyond belief. That section further states that: “In addition, we will progress cycling and walking policies”. There is no real evidence of that at this stage. The verdict for Fianna Fáil Senators on this motion is that they have put their hands out to be slapped, no real achievements have been made on this initiative. I hope for more significant achievement on this and I look forward to the interim report in the next few months.

**Senator James Carroll:** Gabhaim buíochas as an deis labhairt ar an rún seo faoi smart travel agus faoi rud eile sa Seanad. Tá áthas an domhain orm seans a bheith agam ráiteas a dhéanamh anois.

I welcome the Minister of State. He was the Minister in the House when I made my debut in Seanad Éireann. I also congratulate the Minister of State, Deputy Cuffe, who spoke earlier. I have not heard as many towns and suburbs mentioned in a Minister’s speech as he mentioned in his introductory one to this House.

**Senator Brendan Ryan:** No achievements were mentioned.

**Senator James Carroll:** When the smarter travel initiative was launched in February 2009 it had an estimated implementation cost of €4.5 billion, a vast amount of money when examined in the harsh light of today’s economic vista. The Minister of State, Deputy Cuffe, in his extensive contribution, mentioned spatial strategy reform and how this ties into public transport reform and improvement. This will be key when we analyse smarter travel and how it will be delivered in future. To deliver a truly smarter travel plan, we must look at some key factors, one of which is that Ireland has western Europe’s lowest population density and is the only EU country with a lower population than it had 200 years ago. This means there is huge potential for population and public transport growth in the future. We can and must develop this by reaching a point of dense population in city centres which will improve the quality of life of our people, make our local and national economies more productive and make public transport truly viable, with a extensive demand for its service.

Ireland needs to be ambitious and we, in Seanad Éireann, should tie our goals in with those of Dáil Éireann. We should aim to have population targets in the future, one of which is that we should have a target of 5 million people in the Republic by 2020 and 6 million in the Republic by 2050. This is more than achievable. The reason I say that is in light of the motion

that we really start to focus on smart travel as a philosophy. As the Minister of State said, that philosophy can only be fed if the correct spatial and planning strategies are tied in with it.

When doing research for this debate, I looked at other countries and a country about which we forget is Israel. Some 50 years ago, Israel was very underdeveloped but we should look at where it is now in terms of culture, competitiveness and infrastructure. Israel's population has surged from 2 million in 1948 to 7 million today. The Israeli nation has rebuilt itself in a way that puts our problems into perspective. I read a book by Marc Coleman, the economics editor in *Newstalk*, in which he stated that if we were never as good as we thought we were, then we are not as bad as we think we are now. The media would be wise to heed this point.

Looking at the specifics of the motion, we must consider all the issues systematically. A vital issue is to address the competitive nature of our public transport, whether rail or bus, and how we tackle this in future. Over the past ten years, prices have increased in bus and rail, which I used regularly to get to Dublin when in college and working here and which I now use as a Member of Seanad Éireann.

In some respects, the failure of local and national politicians to grasp the need to urbanise and build high quality apartments, whether building cities upwards rather than outwards, was a major contributor to high house prices and many of the loans on NAMA's books. Cities like Philadelphia offer Ireland inspiration on how it could look forward towards its goals for 2020 and 2050. As the youngest Member of Seanad Éireann, I would like us to place a keen focus on that.

In the right locations, the economic benefits of high rise development are ones we can no longer do without. Dublin city quays are arguably more suited to high rise buildings than other places that have been proposed and for which planning applications have been submitted. High density does not necessarily mean high rise buildings everywhere. Cities like Frankfurt and Berlin show how a limited and targeted use of high rise buildings can cluster population in cost effective ways that make for a good quality of life, truly smart travel and public transport quality. There are many benefits to this. People who were forced to move outside Dublin have been subjected to long commutes, negative equity and social exile. That is something we must change immediately.

To achieve my modest population targets for 2020 and 2050, we must make changes to our planning and densification goals to channel them into city centres and not have sprawling commuter towns. I was disappointed the Fine Gael motion focused primarily on Dublin and did not look outside it in its goals and objectives. That is where the motion fell down.

We must look at the price of land. By forcing the State to pay prices based on lands' building potential, land zoned for development is a monopoly good, the value of which has been created by the State as a result of lack of action. The failure to implement the recommendations of the Kenny report for more than 35 years has been the single biggest reason for the escalation of property prices and we must address this. I urge the Minister of State to look at that. The former head of the IDA and the current chair of Louth's economic forum, Padraic White, pointed to outdated legislation as the cause for high land prices in the previous decade.

We must maintain a key focus on some statistics, especially as we look towards smarter travel. Ireland's population has increased by more than 0.5 million since 2002. The natural population increase in 2008 — births minus deaths — was 47,000, so our population is naturally growing. We need to tackle that and tie in our public transport towards that objective. From an average of 3.1 persons in 1996 to 2.81 in 2006 and extrapolating that trend forward to 2.64 by 2012, this seemingly small change will have no profound implications but if we look at what that means in regard to dwellings, 1 million people in 1996 would need 318,000 houses but that same 1 million people would need 378,000 dwellings by 2012, an increase of more than 60,000.

[Senator James Carroll.]

That is crazy and we need to look at reforming that. That is why my correspondence with the Minister of State in the future will encourage him to focus on this. Denmark's national central planning unit co-ordinates the zoning activities of all regional and local authorities, rents are policed, the price of land is regulated and cities are dense enough to be highly economically productive. That is key to this debate.

We must ensure we have consumers to use public transport, whether new Luas services, new Dublin Bus routes or train services. Quality of life is a key issue and I listened intently to "Morning Ireland" this morning which talked about Cloughjordan's eco village, which has a train station nearby. I watched the YouTube video of it first thing this morning and it was heartening to watch what people with noble goals have done. This all ties in together.

I refer to the success of the cycle hire scheme in Dublin. I am a proud member of the scheme but unlike the Minister of State, I do not carry my card in my breast pocket. I used the scheme yesterday. We should examine rolling it out to other urban areas and extending it further within Dublin. As a student in 2003, I went on a cycling tour of Munich and one gets a different sense of a city when one cycles around it for a number of hours. This is where smart travel, public transport and tourism can be tied in together. That is really important because this is where we can really see progress for our citizens and tourists coming to this country.

I refer to the new electric vehicles. A memorandum of understanding in regard to the provision of electric cars was signed with Renault-Nissan. A fund was set up for electric cars and captive fleets. However, we should be more ambitious and more aggressive in these policies. Ambition, aggression and key targets will be the key for all of us.

**Senator Fiona O'Malley:** I am glad to have the opportunity to contribute on this subject because transport is the lifeline of a city or a community. We are all of focused on our own areas. Senator Carroll was very much focused on population growth and so on while my focus will be on the Dublin area. The motion is a fine one which has given us the opportunity to discuss what progress the Government has made in various areas. However, I was somewhat disappointed with it too. My good friend, Senator Donohoe, would agree that it complains that Dublin Bus is taking more buses off the road and reducing routes and, therefore, cutting services to local communities. I am sure he would agree it is not only Dublin Bus which provides public transport services, nor should it be. I am sure he would also agree that just because it is cutting back on buses or realigning its routes, does not necessarily mean public transport services are being curtailed in areas. We want to have competition and ensure Dublin Bus is not the exclusive provider of bus transport. It is not correct that a private transport company does not provide a public service. Such companies should be encouraged to provide services. I am sure the Senator concurs with me that the more competition we have in the provision of bus services throughout the country, the better the service will be for everybody.

I am pleased the Fine Gael Party has acknowledged the billions of euro spent on transport. Day in and day out we hear people complain that billions were squandered and there is nothing left to show for the good times. Any trip down any road will show that we have brought our road network up to European standards. It is a pleasure to travel from place to place now. I take my holidays here and hope, following the events of last week, that more people will start taking holidays at home. They will be able to move around the country much faster than previously.

The motorway network is a great benefit and it is not in anyone's interests to neglect consistently to mention it. We should be proud that our road network is finally coming up to standard. An even more important aspect of the improvement in our road network is its impact on safety and the significant decline in road traffic deaths and accidents.

I share the concerns expressed by previous speakers, specifically Senator Donohoe, on integrated ticketing in Dublin. Having waited for a long time and spent a substantial amount on the project, we must ensure progress on introducing the system is made quickly. This has not been our finest hour.

Although I am an avid cyclist, I am not a member of the Dublin bikes scheme. I would like to support the scheme, however, and I am sure I will join it at some stage. Those of us who live in the central area of Dublin city do not use cars much. Last Sunday, I visited a friend on the North Strand. Often, when I want to get home on a Sunday I take a taxi and more often than not because I do not have patience I will walk rather than wait for a bus. However, when I left my friend's house I saw that an approaching bus was headed for Rathmines, which happened to be my destination. As I did not have my bicycle with me, I thought the only way to get home would be to walk or take a taxi. It did not occur to me that the bus service in Dublin would be good enough to get me home. Lo and behold, however, not only did I not have to wait for a bus — I admit this was fortunate on a Sunday afternoon — but the first bus to arrive was travelling to my destination. This experience changed my mind to a certain extent and is an example of what public transport should be about.

I am an independent person in so far as I travel by bicycle to avoid having to take public transport. It was an absolute pleasure to find a bus that would take me to a relatively obscure part of the city. I did not expect there would be strong demand for a route from Fairview to Rathmines. For this reason, I welcome the new network of routes around the city provided by Dublin Bus.

I hope Dublin ends up with a public transport system comparable to the system in place in Paris. We are well on the way to achieving that objective. One swallow does not make a summer, however, and I will have to test the bus system again when I want to travel somewhere else. Dublin Bus is at least responding to customer and passenger needs with its new network. Rather than every route taking in the city centre, it has introduced routes which criss-cross the city. This is a sign of tremendous progress.

I live near the Luas line and while I do not always use it because I cycle a great deal, I took a tram this morning. On my way to the stop a tram passed by and I thought I would have to wait for some time for the arrival of another one. I did not have to wait for long, however, and although it appeared to be packed, as I had expected, I soon realised that most passengers congregated close to the doors and the centre of the carriage was relatively free. When I moved further into the carriage I found a seat. I often hear people complain the Luas trams are overcrowded. Within one stop, I was able to get a seat. People jump to conclusions very quickly. I almost decided not to board the tram because it appeared to be too crowded. I decided to take it, however, because I thought the following one would probably be crowded as well.

We have made tremendous progress. I am pleased to have this opportunity to discuss good transport initiatives. As a result of the Dublin bikes scheme, one often sees people in suits or other attire not normally associated with cycling on a Dublin bike. Clearly, the scheme is being used for short journeys across town by people who otherwise would not consider cycling in Dublin. I am very pleased with this development because Dublin is a great city in which to cycle. What I appreciate most about the scheme is that drivers now know to watch out for cyclists because there are so many people of them on the roads. The roads are becoming much safer for cyclists and parents will be less frightened about their children cycling to school or to visit friends and so forth because other road users are much more aware of cyclists.

There have been many other transport initiatives, including walking initiatives. I am pleased to have an opportunity to discuss the progress made in this regard. I caution, however, that more work is required on the integrated ticketing initiative.

**Senator Pearse Doherty:** Cuirim fáilte roimh an Aire Stáit.

I would like to be able to support the motion and commend the Government on the great work it has done on smarter travel, public transport and initiatives to encourage people to leave their cars at home. Unfortunately, I am unable to do so. I say this sincerely and as someone who believes in sustainable transport. I look forward to the day I will be able to commend a Government on making this type of progress.

The Government has made a hames of public transport. Far from encouraging people to leave their cars at home, it has cut or curtailed many sustainable public transport routes and sacked many of those working in the public transport sector.

I regret also that I cannot support the Fine Gael Party amendment, which is similar to a previous amendment the party tabled. The amendment reveals the core of Fine Gael ideology, with its relentless calls for the privatisation of public bus services. I cannot support an amendment which deals with the privatisation of bus corridors in Dublin. If we are to have an effective transport system that delivers for all of society, it must be in public hands and accountable to citizens. Allowing private interests to cherry-pick the most profitable services will leave the public element of the transport service decimated and in dire need of resources. The result would be to ensure lesser used services are curtailed or withdrawn.

The smarter travel document is ambitious and forward looking. If implemented, it would ensure that Ireland makes inroads into reducing carbon emissions and promoting the use of public transport. Unfortunately, however, few of the measures in the document have been implemented. We have not seen the energy required to support a policy of creating a modern, 21st century public transport system.

**Senator Pearse Doherty:** We have not seen the real energy that should be put into a policy to create a 21st century transport system.

Different Senators spoke about their own circumstances and transport in their own area. I do not live on a Luas line or a rail line. Like hundreds of thousands of others, I live in rural Ireland. I live in one of three counties in this State, and one of five in the country, that has no access to rail. Some Senators talk about integrated ticketing, but all we want in Donegal is a bus, not to mind making sure that our bus tickets might be used on the rail service. We need to ensure that a transport policy does not just fit Dublin and other urban areas, but rural areas as well. That is a major challenge in respect of the investment that needs to be made, but if we are serious about reducing carbon emissions and the dependancy on cars, we need to make sure we have policies that are as effective in Donegal as they are in Foxrock, Ranelagh, Fairview, Cork and Galway. We need to see proposals that will make it easier for people to turn to more environmentally friendly ways of getting about in those areas that did not have the proper public transport infrastructure in the past.

We have seen cuts in rural transport services, and we need to fund them to ensure that a proper use of our public fleets means all the needs of our communities are served. I come from a county that has no rail network. When Ireland faced difficult times in previous centuries, the British Government put people to work by building rail networks right across our country. Maybe that is a lesson we could take from the British Government today. Under British rule, people in Donegal had far more access to public transport than they have today. We need to see a bit of joined up thinking. If we are sitting in here 20 years from now and the fourth largest city on the island, Derry, is not connected directly to the capital by rail, will we say it is acceptable? The focus on public transport in 20 years' time will be more acute, as will the focus on CO<sub>2</sub> emissions. Do we think that it will be acceptable in 20 years to leave five counties in Ireland without an inch of railway line? If we are honest about it, we will say "No". We all

know we need to do something about it now. It does not require massive investment at this time, but it takes a bit of foresight, energy, imagination and commitment to look at the issues and to plan them.

How can we deliver rail transport to those counties that do not have it? Should we connect the fourth largest city with the capital via a rail link? Should we connect Derry and Sligo by rail? With the re-opening of the western rail corridor, one can get on a train from Sligo and travel right around the country until one comes to Derry, but then one must get a taxi back to Sligo. We have a gap in that rail line which needs to be closed. It is not acceptable now, but it definitely will not be acceptable in the future. We need to connect the fourth largest city on the island with our capital. If we are talking about proper public transport planning, it makes no sense not to plan for that.

We should examine and implement this document. We need to examine serious mechanisms to entice people to use public transport. In counties such as Donegal, which does not have a rail service or a public bus service, there is no other option but to use the car. We have to give people the options to use other modes of transport, so the time is right to start planning the re-introduction of railways to the north west. It can be done on an all-Ireland basis, in the same way the Irish Government is working with the Northern Assembly to develop the dual carriageway from Derry to Aughnacloy. It makes sense to connect the fourth largest city with the capital city, in the same way that we have connected other cities via motorways throughout the State under Transport 21. We also need to connect the rail line.

A north-west committee was set up following proposals by Sinn Féin in Donegal. I met with members from ten different local authorities about two years ago in Donegal. There were members from Sinn Féin, Fianna Fáil, Fine Gael, the Labour Party, the SDLP, the UUP and the DUP all sitting in the chamber in County House, looking at a presentation and united in a steering group with one purpose, namely, to re-introduce rail services into the north west. I call on the Government to take a lead and start helping them to prepare for the business plan to do this.

**Senator Ivor Callely:** I welcome the motion, with the proviso that there is “a lot done, more to do”. I am optimistic that my proviso will be greeted positively by my colleagues in the Government and in the Department of Transport. There exists today a favourable climate in this respect, because statements emanating from Government sources indicate it is favourably disposed to develop its smarter travel initiative, albeit in challenging financial circumstances.

It is only fair to acknowledge the progress that has been made in recent years on public facilities. The measures and proposals are at hand to develop further improvements in the years ahead. This Fianna Fáil-led Government recognises the importance of the smarter travel initiative and the impact it has on the everyday affairs of ordinary men and women. My contribution will focus on a few pragmatic aspects and their impact on the individual. I want to emphasise that we are dealing with the daily transport needs of individuals and our desire to improve the quality of their lives.

As a representative for the Dublin area, my view is that it is vital our nation’s capital has an efficient public transport system that allows industry in the capital to prosper, allows freight cargo to reach the regions, allows tourism to develop, and accommodates the commuter as quickly and as easily as possible. Transport demands in the Dublin area are rising and will continue to represent a challenge for transport service providers in the years ahead.

The smarter travel initiative is putting a framework in place to achieve better integration between transport, land use, new concepts and initiatives. Such integration is vital to ensure sustainable development that should make every journey we take more enjoyable. I acknowl-

[Senator Ivor Callely.]

edge the progress that has been made to improve co-ordination and collaboration between transport agencies and service providers. I understand that the relevant agencies investing in transport consult and collaborate with other providers. This is noticeable in the connectivity between Dublin Bus, Luas and the DART. These three different providers now ensure there is connectivity between the timetables.

I am disappointed that park and ride facilities have not been developed in the Dublin city catchment area. I understand there may be a view that park-and-ride is more suited outside the city catchment in satellite areas. On the one hand we are talking about densities, while on the other hand we are told that park and ride facilities are more suitable outside densely populated areas in order to bring various catchments into one such location. The Minister of State should examine these differing views and take them into account. My colleague, Senator Paschal Donohoe, knows about some of the difficulties that I can relate to in my constituency. My area includes the DART stations at Fairview-Clontarf, Killester, Harmonstown and Raheny. I do not have to bring to the Minister of State's attention the difficulties facing DART commuters in those neighbourhoods. She knows exactly what I am going to say next: people cannot get in or out of their own driveways because of parking in the immediate vicinity. Yet the Department of Transport's policy is that there is no requirement for park-and-ride facilities in the greater Dublin area, and it is suggested that such facilities should be provided outside the urban area. It is probably a greater challenge to provide park-and-ride facilities in the greater Dublin area due to land use, but local authorities are spending an inordinate amount of time and effort trying to prevent day-long parking by commuters. All we are doing, however, is moving them on. It is like the old story of rat running. If a straight road is put in between two points it encourages rat running. Whenever we take a measure in a neighbourhood that is experiencing problems with day-long commuter parking, all we are doing is shunting them on to adjoining roads. We are witnessing this day in and day out.

I ask the Minister of State to consult with some of the public representatives and city officials, particularly the traffic department, as to their call on this matter. She should ask them whether or not there is a difficulty with commuters parking all day. I know the answer to that question, which is perhaps why I am asking it. I am putting down a marker that I am disappointed with the lack of progress in providing such facilities.

We all remember the old debate about whether or not a conductor should be on the bus. It took a long time to resolve that issue, but we have come a long way and there is now co-ordination and collaboration. However, the acid test of that synergy is integrated ticketing. We must have integrated ticketing along with a single price for city transport. Those aspects must be introduced as soon as possible.

We were challenged on the issue of accessible transport with the sectorial plan. We must acknowledge the enormous progress that has been made by all concerned in providing accessible transport. We now need to get those people involved in providing integrated ticketing and single-price journeys.

There is also huge potential in IT or intelligent transport systems. We need to ensure the IT transport initiative is put in place all over the city. In addition, traffic management schemes mainly concern bus priority, which have proved to be successful in providing quality bus corridors. QBCs have made a significant contribution to increased patronage and improved journey times. Massive progress has been made over the past ten years in DART and rail services generally.

As an active person who tries to keep in shape, I run and cycle. In addition, I probably walk a few kilometres every day, if I do not run them. I have a bicycle, a motor bike and a car, which I use at various times.

Unless we have a wholly integrated transport system in the greater Dublin area, I would totally oppose the introduction of a congestion charge for the city. We need to focus on what will make public transport more easily available, thus taking the frustration out of travel. Single-price journeys, integrated ticketing, connectivity and walking routes are vital elements that will ensure people do not use private motor vehicles, thus avoiding traffic congestion.

**Senator John Ellis:** We have had a reasonable debate on smart transport. I noticed, however, that it was almost totally focused on Dublin without reference to some of the major road developments that are taking place around the country. On behalf of the Government side, I recommend this motion to the House and I ask Members to accept it.

Amendment put.

The Seanad divided: Tá, 19; Níl, 29.

Tá

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

Healy Eames, Fidelma.  
McFadden, Nicky.  
O'Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Ross, Shane.  
Ryan, Brendan.  
Twomey, Liam.  
White, Alex.

Níl

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Carty, John.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
Dearey, Mark.  
Doherty, Pearse.  
Ellis, John.  
Glynn, Camillus.  
Hanafin, John.  
MacSharry, Marc.

Mooney, Paschal.  
Norris, David.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Brien, Francis.  
O'Donovan, Denis.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
Ormonde, Ann.  
Phelan, Kieran.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Tellers: Tá, Senators Maurice Cummins and Paschal Donohoe; Níl, Senators Niall Ó Brolcháin and Diarmuid Wilson.

Amendment declared lost

Question put: "That the motion be agreed to."

Question put.

## The Seanad divided: Tá, 28; Níl, 19.

## Tá

Boyle, Dan.  
 Brady, Martin.  
 Butler, Larry.  
 Callely, Ivor.  
 Carroll, James.  
 Carty, John.  
 Cassidy, Donie.  
 Corrigan, Maria.  
 Daly, Mark.  
 Dearey, Mark.  
 Ellis, John.  
 Glynn, Camillus.  
 Hanafin, John.  
 MacSharry, Marc.

Mooney, Paschal.  
 Norris, David.  
 Ó Brolcháin, Niall.  
 Ó Domhnaill, Brian.  
 Ó Murchú, Labhrás.  
 O'Brien, Francis.  
 O'Donovan, Denis.  
 O'Malley, Fiona.  
 O'Sullivan, Ned.  
 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.  
 Donohoe, Paschal.

Fitzgerald, Frances.  
 Healy Eames, Fidelma.  
 McCarthy, Michael.  
 McFadden, Nicky.  
 Phelan, John Paul.  
 Ross, Shane.  
 Ryan, Brendan.  
 Twomey, Liam.  
 White, Alex.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Maurice Cummins and Paschal Donohoe.

Question declared carried

**An Cathaoirleach:** I must announce that a Member voted inadvertently in the wrong location, but it does not alter the vote. When is it proposed to sit again?

**Senator Donie Cassidy:** Ag 10.30 maidin amárach.

### Adjournment Matters.

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### Third Level Contract Staff.

**Senator Ivana Bacik:** This matter relates to the position of contract researchers in third level institutions. The Minister of State is aware that pay cuts and pension levies have been applied to such staff in third level institutions, despite the fact that they have no permanence or do not have the benefits enjoyed by full-time academics and research fellows. I have referred to their position before and thank the Irish Research Staff Association which has been raising the issue for some time with the Tánaiste and the Minister for Finance. The association has challenged the application to its members of public sector cuts and pension levies on the basis that they do not have the benefits enjoyed by permanent public sector employees. It has raised, in particular, the question of third level contract researchers funded by external bodies, in respect of whom a pay level has been set by the external funder, be it a private company in some cases

or an institution such as the European Commission. In that regard, it has for some time suggested there is a difficulty because the external funders have set pay rates for third level contract researchers, but the Government has unilaterally through the application of the pay cuts cut their salaries.

This matter has come to a head with the indication from the European Commission that it will refuse to make future payments to universities which are not paying a particular group of externally funded researchers, the Marie Curie fellows. The Commission has indicated it will refuse to make future payments to universities which are not paying Marie Curie fellows in full. That is now the case. This raises a serious question for the universities and third level institutions which are likely to lose out on funding from external sources. It is a pertinent question on the day the HEA has stated an extra €4 billion will be needed to fund the extra 55,000 students expected to attend third level institutions in the next decade. The university heads have said they cannot maintain top class university facilities and education services because of the funding crisis across third level institutions.

I have raised before the difficulties faced by universities and third level institutions. The Dublin Institute of Technology has raised serious questions about the closure of laboratory facilities, the ending of student classes and cuts in library opening hours and sports facilities because of the cutbacks. There are serious questions about the funding of third level education. Where third level institutions are obtaining funding from external sources, as they should be and actively seek to do, it is important that they are able to obtain it in full. The most recent indication from the European Commission, therefore, has implications not just for the researchers paid by it through the Marie Curie fellowships but also for the universities and institutions.

This position has been adopted by the European Commission following the imposition of pay cuts on externally funded researchers, regardless of the nature of the contract and the terms and conditions laid down by the Commission or any other external funding authority. Will the Minister of State confirm that the blanket approach of his Department's and the Department of Finance to cutting pay for externally funded researchers may have the unfortunate consequence of resulting in a breach of contract between a university and the funding authority? Will he confirm that the Department intends to review the situation with regard to Marie Curie fellows, given the implications of a loss of funding to the universities concerned? There has been correspondence on the matter between the Irish Research Staff Association and the Department.

I have been on the front line in third level institutions, teaching in Trinity College, from which I am on unpaid leave, but I hear from colleagues that funding cuts have been particularly bad this year. There is a serious issue for the contract researchers, on whom so many departments, particularly in the scientific and medical fields, depend. These are individuals who are paid relatively low amounts and do not have permanence or enjoy any of the benefits attached to third level employment generally. I hope, therefore, that the Minister of State will respond to the European Commission's recent indication that it will refuse to make future payments to universities, unless the Marie Curie fellows are paid in full without the imposition of the cuts imposed by the Government.

**Minister of State at the Department of Education and Science (Deputy Seán Haughey):** I thank the Senator for raising this matter. I would like to give some background information on the Marie Curie programme. It is part of the European Union's seventh framework programme for research and technological development, the major European Union instrument for

[Deputy Seán Haughey.]

funding research in the period 2007 to 2013. It seeks to provide broad support for the career development of researchers in the Union, with particular emphasis on research training and the provision of a structured mobility period in another country. It is open to researchers across all disciplines and from both industry and academia.

The impact of the programme in Ireland is significant. The programme has enabled research groups in our higher education institutions to attract high quality international PhD students and researchers to their teams. It has also enabled Irish researchers to spend a period abroad, furthering their experience and giving them the opportunity to work with internationally renowned researchers in their field of expertise.

The Marie Curie programme is an EU-wide scheme and its terms and conditions are defined by the European Commission. In this context, Commission officials have raised queries concerning the impact on Marie Curie award holders arising from the application of the recent public sector pay reductions. The criteria for reducing the pay of public servants, with effect from 1 January, are contained in the Financial Emergency Measures in the Public Interest (No. 2) Act 2009, in which a public servant is defined as a person who is employed by, or who holds any office or other position in, a public service body. A public service body is defined as one which receives direct or indirect funding and in which a public service pension scheme is in place, or applies or may be made. Section 6 of the Act contains a provision to allow the Minister for Finance to exempt either certain public servants, or classes or groups of public servants, from the operation of the Act either entirely or to such extent as the Minister considers appropriate in the event where there are exceptional circumstances.

Under the terms of the Act, universities and institutes of technology are considered to be public service bodies. The Act does not distinguish between those employees who are members of a public service pension scheme and those who are not, nor does it distinguish between those whose salaries are wholly paid from moneys provided by the Exchequer and those whose salaries are funded from other sources. The position is that all persons employed by a university or institute of technology, regardless of how their salaries are funded and irrespective of whether they are members of a public service pension scheme, are by definition public servants within the meaning of the Act.

Holders of Marie Curie awards who are hosted in a university or institute of technology have their employment contract with that institution. It is for this reason that the pay reduction has been applied to the Marie Curie fellows in the same way as it has to all other researchers and employees of these institutions. I am aware that representations have been made for an exemption to be made in the case of Marie Curie researchers. The Senator will be aware, however, that any consideration in this case must take into account the wider implications of such an exemption for other staff in the institutions and across the public sector.

**Senator Ivana Bacik:** Section 6 of the Act allows for an exemption to be made, on which the Minister of State focused. I notice that he did not close off entirely the possibility of an exemption being made in the case of externally funded researchers. Therefore, I ask that the use of section 6 be considered to exempt the particular category of externally funded researchers mentioned. It seems unfair to include these people as individuals and it is not in the interests of third level research funding in general to have them included in the Act with the implications this may have for external funding for universities and institutes of technology.

**Deputy Seán Haughey:** I outlined the legal position to the House in respect of this matter. As I noted, representations have been received and I reiterate these are being considered.

However, they must be taken into account along with the wider implications of such an exemption in regard to other staff in the institutes and across the public sector.

### Car Scrappage Scheme

**Senator James Carroll:** Gabhaim buíochas as an seans an ráiteas seo a phlé. Is é mo chéad rún ar an Adjournment.

When the car scrappage scheme was introduced in the budget last December it had the effect of bringing confidence back to the car industry. Confidence is an intangible concept and is of critical importance to consumers in their respective markets and I welcome that it has returned to the motor industry.

The year 2009 was an *annus horribilus* for the car industry, with sales plummeting, reduced working times for staff and job losses. This year has seen definite improvements for all involved in car dealerships. First, this month the Central Statistics Office released figures that show a 30.5% increase in year on year growth recorded in the motor trade in February 2010. Second, other figures released by the CSO show that 12,379 new cars were licensed in March, a jump of 68.5% from the same month last year. Third, at the end of March some 42,500 new cars were registered in the State, yielding €159 million in VRT for new cars alone with a further €125 million from VAT on new cars. Sales of new cars were up 31% for the first three months of this year.

However, the work to rule by many Revenue staff members who deal with queries and process applications from dealerships in this regard has been a significant issue. I have been in contact with several Ministers and have been contacted by a number of car dealers in recent weeks and this is the reason for my Adjournment matter.

A key point to remember is that the profit car dealers were making on a sale was often equal to or less than the value of the car scrappage scheme allowance of €1,500. A number of dealers with whom I spoke are really feeling the pinch in not having this vital cash flow to assist their businesses.

As I said, confidence is a vital intangible concept and Irish consumers need to release their spending power. Confidence was rocked because of the recession and the ratio of people's savings sky-rocketed towards 8%. With steady national leadership in regard to public finances coupled with businesses reducing their prices we can hope the saved money will begin to be released and pumped through the veins of the private and commercial sector which has been struggling enormously to date.

I understand there has been movement on this matter and look forward to the Minister of State's reply.

**Deputy Seán Haughey:** I take this Adjournment matter on behalf of my colleague, the Minister for Finance, Deputy Brian Lenihan. I welcome the opportunity to explain to Members of this House the background to the scrappage scheme and to clarify the status of the repayment to car dealerships since the scheme began on 1 January 2010.

During the second half of 2008 and in 2009 there was a very considerable reduction in the sale of cars, especially new cars. The sharp decline in new car sales was an international phenomenon not unique to Ireland. Scrappage schemes were introduced in a number of EU member states with a view to assisting the motor industry. Such schemes assisted in slowing and in some countries reversing the significant declines in new car sales. Various sectors of the motor industry in Ireland sought the introduction of a car scrappage scheme to assist the sector,

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especially given the likely employment consequence further reductions in car sales would have. The Commission on Taxation also recommended that the introduction of a focused scrappage scheme should be considered in certain circumstances.

In that context the Government decided to introduce a car scrappage scheme aimed at replacing old cars with low CO<sub>2</sub> emission cars. The Minister for Finance announced the scrappage scheme in his Budget Statement on 9 December 2009 and it has been enacted through the Finance Act 2010.

In summary the scrappage scheme operates from 1 January to 31 December 2010. VRT relief of up to €1,500 is available upon registration of a new vehicle, subject to the scrappage of a qualifying old vehicle. The VRT relief is provided where a new category A, or passenger car of emissions band A or B with CO<sub>2</sub> emissions of 140g/km or lower is purchased and registered and an old car is scrapped.

To qualify for relief, the scrapped vehicle must have been registered in the State in the name of the purchaser of the new car for at least 18 months previous to the date of scrappage; on the day of scrappage be ten years old or more from the date of first registration; be scrapped on or after 10 December 2009 and no later than 31 December 2010; be scrapped within 60 days of the date of the new car being registered, or have been scrapped within the previous 60 days of the date of the new car being registered; have a valid NCT certificate of roadworthiness, or one that has expired no more than 90 days prior to the issue of the certificate of destruction, or documentation to indicate that it has been presented for and failed an NCT roadworthiness test in the previous six months; and have been insured for use on the road for at least 12 months in the 18 months prior to the issue of the certificate of destruction.

For the purposes of the scheme the term “scrapped” means that the old car has been taken to an end of life, ELY, authorised vehicle treatment facility and a certificate of destruction issued by the facility in respect of the car. In designing the scrappage scheme, one of the aims was to ensure the administrative burden on the State would be light. Accordingly, the scheme was designed so the onus was on the dealer to ensure the conditions were met. The legislation provided that all the paperwork associated with each claim would be kept by the dealer for a period of four years so in future audits the dealer’s operation of the scrappage scheme could be examined by Revenue officials.

In furtherance of this aim, the claim form designed for the trader was also simplified to the extent that only four pieces of information were required by Revenue for each scrappage claim, namely, the registration number of the new vehicle, the registration number of the scrapped vehicle, the number of the certificate of destruction issued in regard to the scrapped vehicle and the amount claimed. In addition, the scrappage relief for up to 15 vehicles could be claimed on the one form.

The system was designed so that, on successful processing of a claim, a cheque was not issued to the dealer but rather their account with Revenue was credited to reflect the refunded amount. In addition, while there was no specific provision regarding the timing of the claim, it was always the view of the Revenue Commissioners that, in order to ease the processing burden, dealers should delay submitting their claims until the end of the month, or at the very least until a claim form had been fully completed, when 15 vehicles had been scrapped. This would reduce the amount of processing required in Revenue.

In practice, dealers began to submit claims on a weekly and sometimes even a daily basis, or even on a car by car basis. In the interest of customer service, Revenue aimed to process these

claims as they came in, resulting in an almost immediate adjustment to the customer's account on receipt of the claim. Nevertheless, I understand from the Revenue Commissioners that due to industrial action there have been some delays in processing claims under the scheme. However, the position has improved significantly over recent weeks because, following the Croke Park discussions, the industrial action was withdrawn in that regard.

The current position is that over 4,500 claims have been processed under the car scrappage scheme up to 23 April 2010. Refunds of VRT amounting to around €6.5 million have been made to car dealers in respect of these claims. Currently there is no backlog of outstanding scrappage claims. I understand that some 80 to 100 claims per day are being received by Revenue at present and these are currently being processed on receipt or within a maximum of three working days.

Of course time can elapse between the date a garage sells the new car and the date the old car is scrapped, the certificate of destruction obtained and the VRT relief can be claimed from Revenue. However, having the old car scrapped is a necessary condition of the scheme for the claiming of the VRT relief. Such delay is unavoidable because it is a scrappage relief scheme. By definition the car has to be scrapped before Revenue can grant the relief. It is an inbuilt control and anti-avoidance feature of the scheme. If the Senator has specific information regarding ongoing delays in the processing of scrappage refund claims for certain dealers or garages, he might wish to take them up directly with the Revenue Commissioners.

**Senator James Carroll:** I thank the Minister of State, Deputy Haughey, for that comprehensive reply on behalf of the Minister for Finance, Deputy Brian Lenihan. I read in *The Irish Times* today that the director general of the Society of the Irish Motor Industry, Mr. Alan Nolan, said the scrappage scheme has had the desired effect, as noted by the Minister of State, on sales and the scheme is on target to produce approximately 10,000 new car sales from scrappage sales alone. I am heartened by the Minister of State's indication that there is currently no backlog of outstanding claims, which would be a transformation of the case since 1 January to last week. I hope the Croke Park deal and the pressure of many groups has led to this resolution.

One dealer told me he was awaiting nearly €75,000, and others have figures between €30,000 to €40,000. Last week Mr. Bill Cullen said his motor group was owed €340,000. I hope the claims will be processed and the money will be received in the coming days. The simple fact is that no business in the current environment can do without — nor should it be expected to do without — such money rightfully due to it in this tough economic climate. I welcome the Minister of State's indication that all new claims will be processed on receipt or within a maximum of three working days. I hope that pattern continues for the rest of 2010.

### **Special Areas of Conservation.**

**Senator Frances Fitzgerald:** I welcome the Minister of State and thank him for coming to respond to the matter I have tabled on the protection of Liffey Valley parklands and the area around the Liffey. I am pleased to have the opportunity to raise the important issue of protecting the Liffey Valley parklands and to seek to progress the issue by obtaining an update from the Minister on the work of the Department on the issue, as well as his view on the need to co-ordinate the effort to maintain and embrace these lands.

I recently attended the very successful AGM of the Liffey Valley Park Alliance, an organisation founded some years ago to protect the lands. It works very strongly with the local community to further this aim. The commitment and determination of these individuals in trying

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to protect these lands is extraordinary, and they are committed to ensuring the lands are protected for the benefit of the community.

There are three principles arising from this issue. First, the Liffey Valley lands must be permanently protected and I would like some information in that respect. I have raised this point before and I would like to know what progress the Minister and his Department has made on it. What stage is the process at and does the Minister intend to introduce legislation to the Dáil and Seanad? Is he still in consultation, for example, with South Dublin County Council or has that period of consultation finished? The key question is whether there are plans to introduce legislation.

Second, it was pointed out at the recent meeting I attended that there is much potential for tourism in these lands. The Liffey Valley is one of the finest landscapes in the Leinster region and there is a strong feeling that this is not being harnessed. There is a belief, for example, that the maintenance and care is uneven and not of a consistent standard. That is critical because safety, maintenance and landscaping issues arise.

Third, in order to harness the potential of the area there should be co-ordinated management. The Minister of State is aware that the Liffey Valley lands cut across four different county council jurisdictions, making an holistic view of management very difficult. However, a report was commissioned by the Office of Public Works and one of the conclusions was that the OPW should be given a much greater role in managing the area, bringing together the various councils and ensuring a co-ordinated approach. That does not mean the OPW would do everything but it would take a co-ordinating role. The role of the councils would become clear and strategies and activities could be planned properly.

There is a precedent for this sort of management in the Lagan Valley area. That cuts across three local authorities but is now managed by a Government agency. It has been very successfully promoted and protected, both for local residents and as a tourist attraction. The commissioned report made these recommendations but why is there resistance to implementing its recommendations? Why has it not been acted upon?

I would like to hear the Minister's views on the concept of the co-ordinated management that is needed and I would like the issue to be progressed. There is already infrastructure in place, including a tourist structure and outdoor activities, but we need the Government and councils to work together to develop and promote the Liffey Valley in order to protect it and develop its potential. I look forward to hearing the Minister of State's comments on the issue and I hope he can report some progress.

**Deputy Seán Haughey:** I am taking this matter on behalf of my colleague, the Minister for the Environment, Heritage and Local Government, Deputy John Gormley. The city and county development plans of the relevant local authorities provide the primary land use protection policies for the Liffey Valley. In addition, parts of the Liffey Valley are already covered by special designations. For example, the area between Chapelizod and Lucan is protected by a special area amenity order, SAAO, and part of the valley is also designated as a proposed natural heritage area.

It is an objective of South Dublin County Council's current development plan to investigate the feasibility of extending the special amenity area order to further lands, including part or all of St. Edmondsbury and Woodville lands. The council's draft development plan for 2010 to 2016 outlines specific objectives to preserve and enhance the character and special features of the Lucan bridge to Palmerstown special amenity area, actively investigate the feasibility of

extending the Liffey Valley SAAO to include lands from the Dublin City Council boundary to the boundary with County Kildare and pursue the expansion of the existing SAAO in the area as set out by the Minister for the Environment, Heritage and Local Government. The protection of the Liffey Valley, which is a major amenity for the people of Dublin, and the extension of the SAAO are objectives which we share.

Accordingly, in September 2008 the Minister requested South Dublin County Council to arrange for an evaluation of lands between Palmerstown and Lucan bridge, the existing area of special amenity and the N4, Old Lucan Road and Old Hill Road in order to assess the suitability of some or all of these lands for designation as a new area of special amenity, having regard to the provisions of section 202 of the Planning and Development Act.

South Dublin County Council subsequently submitted a report on the matter. This has been considered in the Department of the Environment, Heritage and Local Government and it is intended to request the council to give further consideration to the extent of lands that might be included in such an area. In February 2009, the Department requested Dublin City Council, Fingal County Council and Kildare County Council to carry out evaluations of lands in the Liffey Valley which fall within their functional areas in order to assess the suitability of some or all of these lands being designated as part of an extended area of special amenity. Responses have been received from each of these planning authorities and are under consideration.

In finalising its consideration of the relevant information provided by the planning authorities and taking account of other representations on the matter, the Department will shortly decide whether to issue a direction under section 202(2) of the Act regarding the making of a further special amenity area order or orders in the area.

On the broader question of the provision of a national park in the Liffey Valley, a strategy document, *Towards a Liffey Valley Park*, was prepared by consultants under the guidance of a steering group set up by the OPW and was published in November 2006. Fingal, South Dublin and Kildare county councils and Dublin City Council were also represented on the steering group. The document set out a strategy to provide an integrated management framework for the Liffey Valley and create a process for the establishment of a Liffey Valley Park composed of a necklace of publically owned spaces within the area. The report did not recommend the designation of the Liffey Valley as a national park, since the designation is a non-statutory designation used to encompass State lands. Nonetheless, there is scope to create and develop a non-statutorily based park in the area comprising State-owned and other lands. The Minister expects the local authorities concerned to progress this matter.

**Senator Frances Fitzgerald:** With respect to the Minister of State, I am disappointed with the reply.

**Deputy Seán Haughey:** I thought it was very positive.

**Senator Frances Fitzgerald:** I am particularly disappointed that my question on the need for a co-ordinated approach to the management of the Liffey Valley was not addressed. If we raise Adjournment Matters, I ask that the Departments concerned answer the points raised. I am disappointed that, while the report carried out some years ago was referred to, there was no reply to the key question of co-ordination. The Minister of State has not outlined his views on my questions about co-ordinating the protection and enhancement of the Liffey Valley and whether there is a need for a structure run or co-ordinated by the OPW.

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I will raise this matter again on the Adjournment in order to get a reply to my questions. With respect, the Minister of State is replying on behalf of the Minister, but the Department has not addressed the key point in this Adjournment debate.

**Deputy Seán Haughey:** Having been a public representative for many years, I thought it was a very positive reply.

The Seanad adjourned at 8.05 p.m. until 10.30 a.m. on Thursday, 29 April 2010.