

SEANAD ÉIREANN

Dé Máirt, 11 Bealtaine 2010.
Tuesday, 11 May 2010.

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Paidir.

Prayer.

Business of Seanad

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

The need for the Minister for Health and Children to clarify if the 24 hours a day, seven days a week accident and emergency services at Wexford General Hospital are under threat and the Government policy on the recent announcements by the HSE regarding accident and emergency services at Wexford General Hospital.

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

The need for the Minister for Health and Children to reverse the decision to close Loughloe House nursing home, Athlone, County Westmeath.

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

The need for the Minister for Tourism, Culture and Sport to make a statement on her strategy to attract visitors to Ireland and assist the tourism industry.

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

The need for the Minister for Education and Skills to clarify the resources she will provide to make Cregmore national school, Cregmore, County Galway a safer location, further to her supportive telephone call to the school following the horrific road accident on 28 April, in which life was seriously threatened and 11 vehicles were demolished.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Towmey, McFadden and Buttimer and they will be taken at the conclusion of business. Senator Healy Eames may give notice on another day of the matter she wishes to raise.

Order of Business

Senator Donie Cassidy: The Order of Business is No. 1, Fines Bill 2009 — Report and Final Stages, to be taken at the conclusion of the Order of Business.

Senator Frances Fitzgerald: This is probably one of the few parliaments in Europe which is not discussing the eurozone rescue package today. While I am aware that legislation will be taken on Thursday of next week, the House needs to discuss the many issues which arise from the decisions taken at the weekend, not least the question of how Ireland will refocus on creating jobs. I was struck, as will have been others who watched “The Frontline” programme last night, by the discussion and debate on the number of reports the Government had commissioned on job creation. The last time I remember a Government commissioning so many reports they were on the health service. The result was the establishment of the Health Service Executive and we all know where that has ended up. I am concerned that we do not have evidence of the Government’s intentions to introduce a jobs strategy and, therefore, call on the Leader to ensure we will have a debate on the matter as soon as possible. As the dole queues lengthen, we need to know what are the lessons being learned from the many reports the Government has commissioned, what is its plan of action and where it is. Notwithstanding bailouts at European level, unless the economy grows and jobs are created, we will not go anywhere. Job creation is the key task facing us and I ask that the House focus on the issue as soon as possible.

I propose an amendment to the Order of Business that the Minister for Health and Children outline to the House what precisely is being proposed with regard to cuts in accident and emergency services. This issue has created major anxiety because many patients are already waiting on trolleys for attention in accident and emergency departments. In addition, the plan announced by the Minister to eliminate waiting times in accident and emergency departments has clearly not worked. We need an update on her plan and the proposed cuts which will cause considerable hardship and concern. I have raised two critical issues which the House needs to address today.

With the anniversary of the publication of the Ryan report imminent, Archbishop Diarmuid Martin yesterday referred to dark forces in the church. If his statement implies that there is still denial about sexual abuse and cover-up, I ask him to make clear what precisely he means and about whom he is talking. Clear legal guidelines are in place on the action that must be taken if a person suspects that child sexual abuse is being covered up. I remember, for example, a debate in which Members discussed concerns that the Health Service Executive was not able to access information from various dioceses. In the context of the forthcoming anniversary of the publication of the Ryan report, the need for the utmost clarity and the clear procedures in place regarding knowledge anyone possesses about child sexual abuse, I hope we will have clarity from the archbishop in the days ahead.

Senator Joe O’Toole: If possible, I would like to see the Minister for Health and Children in the House today. Apart from the issue raised by Senator Fitzgerald, I would like to congratulate the Minister for dealing with the head shop issue, in which Members on all sides of the House have taken a keen and passionate interest. Her response is a simple and effective way of dealing with it. It may well be challenged in the courts, but it is a very good start. It is also appropriate to acknowledge the efforts made by Senator Wilson who raised the issue at the outset and pushed all of us to take action, sign letters, attend meetings and so on. I congratulate him and Ms Grainne Kenny who has done so much work on the issue and brought to our attention what was happening in eastern Europe. It is important to acknowledge that this step provide relief for many anxious parents and communities.

I support the point made by Senator Fitzgerald on the need to look again at the Ryan and Murphy reports. I was astonished at the extraordinary words of Archbishop Martin last night. That he is able to say there is still denial about the extent of child abuse within the church blows me away. I find it hard to come to terms with this after all we have read and seen. He

has told us with great courage that he knows there are people within the church who would prefer if the truth about child abuse did not emerge. We can only conclude that we have not heard all of the story and that there are forces within the church who are determined to conceal the truth. That is astonishing and the archbishop deserves any support we can give him. He needs to bring the matter further. While we need to know more, we must acknowledge that what he has done is very important. I thought things could not get worse and that we had heard everything, but that there is still more we have not heard and that there are people who are determined to conceal the truth is more than I can accept. The archbishop should allow his words to seep through the structure of the church and society for the moment and let people change their ways, after which we deserve to hear the full facts about obstructionism or non-co-operation in the church or anything related to it. I am not simply talking about members of religious orders or the clergy. These are crimes that are being hidden and it is important that we get to the bottom of the matter and acknowledge the points made.

Senator Alex White: At the time the bank guarantee was provided in September 2008 the Minister for Finance said in this House that a compelling argument in favour of the Government's actions was that it would protect our economic sovereignty. In truth, our economic sovereignty and room for manoeuvre have been steadily eroded since. In a radio interview yesterday the Taoiseach was asked about the Government's budget strategy for next year. He said the Government had "received no formal or informal indication from anybody [in the European Commission] that a particular course of action would be expected of us". It is all about what the European Commission expects of Ireland. A Government has a greater role than simply carrying out the instructions of the European Commission, although I believe in the European project and pooling sovereignty in the greater interests of the people and people across Europe. However, I do not believe in our sovereignty being wrestled from us, which is essentially what has happened. By our own actions, inactions and policy failures in the past ten years, especially regarding the banks, we have greatly limited the economic independence of this country. I accept it is not peculiar to Ireland. A major debate is coming in Europe in the next few years about what level of economic independence any member states will have. The hand of the Irish Government and people will be very considerably weakened as a result of what has happened in recent years. All the debates about tax harmonisation and the economic independence this country has will all change radically in the coming years. It will be extremely difficult for this country to maintain any serious level of economic independence. I really regret the Taoiseach appears to be almost exhibiting a defeatist attitude towards this.

Senator Donie Cassidy: That is very unfair.

Senator Alex White: When he describes economic and budgetary policy, he talks about what is expected of us by the European Commission instead of taking a strong, robust and independent line, as Senator Fitzgerald has said, on job creation and the development of the economy, thereby coming across in a positive way, as the Opposition has, with actual proposals as to how we, as a sovereign Irish Government, could turn around the economy. It is lamentable that he is not doing that, particularly on the day when we have been informed that Ireland has the third highest unemployment rate in the OECD. While it is unlikely that the Leader will be able to arrange it, can we have the Taoiseach come to the House to explain why he has taken such a defeatist and negative attitude on the future of our country?

Senator Donie Cassidy: That is not true.

Senator Niall Ó Brolcháin: I ask the Leader for a debate on the outside influences affecting the country's economy, of which there are many. Sometimes in debates in this House and

[Senator Niall Ó Brolcháin.]

elsewhere we think of ourselves as a little island unaffected by everywhere else. There has just been a general election across the water in the United Kingdom which has a profound effect on what happens in this country. There are many other political instances and issues happening in other countries. The euro is collapsing as a result of what is happening in Greece. It is about time we acknowledged we are not completely in control of everything that happens in this country and that there are many outside influences.

I raise the issue of this wonderful volcano in Iceland, as I have done before. I previously called it the elephant in the living room but I think it is the volcano in the living room as we see pictures of it regularly. It is having a major impact on people travelling to and from this country and on travel in Europe in general. Over the weekend somebody suggested there was a volcano in Connemara. There was an enormous plume of smoke in Connemara where a hill was set on fire.

Senator Fidelma Healy Eames: They are called gorse fires.

Senator Niall Ó Brolcháin: A large number of fires are occurring as a result of the very dry weather we are having and small gorse fires are getting completely out of control. There is also the possibility of people setting fires deliberately. We need to consider how these fires are dealt with because the emergency services in such instances are not adequate. I fear for the loss of life in the future if we do not look at how these are happening.

Senator Liam Twomey: Nobody should be surprised by Archbishop Diarmuid Martin's statement last night. In this House I previously pointed out that the majority of child abuse occurs within the home by perpetrators known to the victim. When that happens, as I have seen myself, families can be split, with some supporting the victim and others supporting the perpetrator of the crime. We should not be surprised that Archbishop Diarmuid Martin is encountering within the church darker forces who are obstructing the changes he wants the church to make. We should have a debate in the House to offer support those bishops and others within the Catholic Church who want to bring in a new era of child protection within the church because the church still has a major role to play in our education and health systems. We should offer support to those leading lights in the church who want to see a new era in child protection in the Catholic Church. We should have a debate on that issue fairly soon to offer encouragement to Archbishop Diarmuid Martin in what he is trying to do.

I also ask the Leader for a debate on Government policy on Anglo Irish Bank because we are not sure whether it wants to keep it open, wind it down or close it. We should have an early debate on this issue because it costs taxpayers billions of euro every year.

Senator Diarmuid Wilson: I join Senator O'Toole in welcoming the decision of the Minister for Health and Children, Deputy Harney, to ban a large number of legal highs that were on sale in head shops until midnight yesterday. In particular, I welcome the fact that from now possession of such drugs and their supply for sale in such shops will be subject to a sanction of up to seven years imprisonment and-or a fine for unlawful possession and, on indictment, of life imprisonment for unlawful supply. As Senator O'Toole stated, this issue has been ongoing for far too long. Two years ago a small number of other Members of this House and I mentioned that head shops were opening throughout the country at an alarming rate. Every county and major town has witnessed their opening since. Therefore, I very much welcome the decision made by the Minister and pay tribute to colleagues on all sides of the House who pursued the issue vigorously. I call on them to keep pursuing it until such time as these shops are forced to close. Unfortunately, their owners will try to find a loophole to get around the ban announced today by the Minister.

Senator Feargal Quinn: The Leader of the Opposition, Senator Fitzgerald, has called on the Government to do something about job creation and, understandably, criticised the number of reports sought and task forces and committees set up during the years to tackle the issue. However, that is the way we will achieve it. We have the answer in that the way to achieve job creation is through the creation of competition. I am concerned that there is a belief that somehow or other we can solve the problem by protectionism. From the 1920s to the 1950s and into the 1960s we tried to create jobs by protecting ourselves from competition. From reading the newspapers, I note almost on a regular basis that there is a return to the same thinking, that if we are to solve the problem, we must protect existing jobs. The way to protect jobs is by making ourselves much more competitive. The draft planning guidelines published in the newspapers today suggest the opening of new stores and retail outlets should be restricted. I assume this restriction is being included to protect existing jobs, but that is not the way things happen. The way to create jobs is to create competition.

There is another criticism in the newspapers today concerning the fact that the leaving and junior certificate applied examinations papers are being printed in England. The reason is that because of European Union guidelines we cannot influence the process and give printing contracts to our friends in this country. The examination papers will be printed by whoever gives the best quote. The reason fewer people from the Republic go shopping in the North is that we have made adjustments to make ourselves more competitive. Unless we recognise the need to do this and become more competitive, we will not create jobs. Therefore, rather than trying to protect existing jobs, let us see what we can do to encourage competition.

Another interesting story concerns energy production. We read in the newspapers today that there are Americans who are willing to invest in wave energy projects in the west. This might be in competition with the Spirit of Ireland group which is trying to produce energy using hydro power, but let us encourage such competition because that is the way we will make ourselves more competitive.

Senator Camillus Glynn: I strongly support the remarks of Senators O'Toole and Wilson on the announcement of the Minister for Health and Children on head shops. We have the dubious honour in Mullingar of having two such shops, one of which is brazen enough to advertise that it can advise people on how to grow their own products. Such brazenness is unrivalled. I welcome, in particular, the sanctions proposed by the Minister. I hope everybody involved — private citizens, the Garda and all other agencies — will co-operate to put head shops where they belong, namely, out of business.

In the past I called on many occasions for a debate on type 1 and type 2 diabetes. I succeeded after two years in getting a debate for an hour and a quarter. It is time to have this debate again and I hope the Leader will give more time to the subject on this occasion. Types 1 and 2 diabetes have dire effects on the health services. Any physician or GP will indicate type 2 diabetes is among those diseases which are most on the rise. A good debate in this House for a realistic period be of benefit. We are whistling past the graveyard on this issue on both sides of the House.

Senator Paul Coghlan: I support the proposal made by Senator Frances Fitzgerald and I second the amendment to the Order of Business to have the debate on the Brussels package, which is timely and appropriate. Allied to that is the question that has been raised by Senator Twomey regarding Anglo Irish Bank. We know there were 101 questions from the Commission regarding Anglo's plans, which were submitted some time ago, and we have read that the final questions are to be answered this week. The Commission will rule on what will happen.

[Senator Paul Coghlan.]

The important point could be that the good bank element, if it is agreed and signed off, could become the nucleus of a third force, which is so necessary in banking and from the banking perspective in this country. I have raised the issues of vesting orders and the powers granted to NAMA under the National Asset Management Agency Bill, which both Houses approved. In response to a query from our learned colleague, Senator Cummins, the Minister for Finance has now stated that “section 204(3) of the NAMA Act will be amended to reflect the commitment regarding tax information when the next legislative opportunity arises”. It should be noted that the commitment relates to NAMA getting information from the Revenue Commissioners and does not disturb the power or reverse it.

Questions have been raised by Senator Cummins, myself and others, and perhaps there are other flaws which may not be so tiny. We do not know. In conjunction with Senator Fitzgerald’s comments, the Leader could take such issues on. I encourage him to do so.

It is disappointing to hear from no less a person than Archbishop Diarmuid Martin that there is a lingering denial of child abuse because of a prevailing culture of secrecy. In line with all other Senators we should be supportive of the archbishop and other bishops, together with the good forces out there trying to get matters right.

An Cathaoirleach: Did the Senator second the amendment to the Order of Business?

Senator Paul Coghlan: Yes.

Senator John Paul Phelan: The Senator may have been referring to another issue when seconding the amendment.

Senator Paul Coghlan: Did I?

Senator Terry Leyden: I commend the Government and the Minister for Health and Children, Deputy Mary Harney, and the Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, on the speedy action in the closure of head shops. I welcome the fact that the head shop in Roscommon, called High Times, has closed, according to the Joe Duffy radio show. I commend Jacqui Snype, who headed the campaign, and the people in Roscommon who protested regularly outside that shop. It is a great relief to all concerned. Senator O’Toole was very fair and Senator Wilson has been involved in the campaign from the start. We in the House have supported him in those issues and we deserve credit for taking on the issue and the Leader deserves it for arranging a debate in this regard.

Will the Leader consider a debate on the role of the Broadcasting Commission of Ireland and the sector in general?

Last night, we were given doom and gloom. At 8.30 p.m., it was about business. At 9.35 p.m., the “Aftershock” programme was shown. Between 10.35 p.m. and 11.40 p.m., Pat Kenny was on air.

An Cathaoirleach: This is not relevant to the Order of Business.

Senator Jerry Buttimer: Close down RTE. We will have one radio station — Fianna Fáil Live.

Senator Terry Leyden: I am afraid——

Senator Jerry Buttimer: It will not mention shortcuts, no money, NAMA, unemployment, drug abuse, debt——

An Cathaoirleach: Members, please.

Senator Terry Leyden: RTE seems to have an oppositional agenda.

Senator Jerry Buttimer: Radio Fianna Fáil Live. “Terry Leyden ina Shuí”.

Senator Liam Twomey: Bring back the *Irish Press*.

An Cathaoirleach: To be honest, all Senator Leyden would need to do to get that information is read the *RTE Guide*.

Senator Terry Leyden: I watched last night. I want to say something else.

An Cathaoirleach: No, we do not want to discuss the content. People were free to watch the programmes last night.

Senator Terry Leyden: This is relevant.

An Cathaoirleach: Is the Senator looking for a debate?

Senator Terry Leyden: Yes, but I should give a reason for calling for that debate.

An Cathaoirleach: I do not necessarily need one.

Senator Terry Leyden: Last night, I watched Vincent Browne’s programme. He made an outrageous attack on Sir Anthony O’Reilly, a man who——

An Cathaoirleach: No. That is out of order.

Senator Terry Leyden: It was an outrageous attack.

(Interruptions).

An Cathaoirleach: We will not deal with the content of anything on radio or television last night.

Senator Terry Leyden: Vincent Browne should apologise to Sir Tony O’Reilly.

An Cathaoirleach: That matter is out of order.

Senator Terry Leyden: Thanks be to God, George Hook was there.

An Cathaoirleach: We are out of time.

Senator Terry Leyden: Sir Tony O’Reilly founded the Ireland Fund, one of the greatest schemes in the country.

An Cathaoirleach: I ask the Senator to resume his seat or leave the Chamber.

Senator Terry Leyden: I was outraged by the attack.

Senator Joe O’Toole: On a point of order, an absolute rule in Standing Orders should be brought to the notice of the House, namely, when the Cathaoirleach stands, the speaker sits. It would be nice were that observed.

A Senator: Hear, hear.

An Cathaoirleach: I thank Senator O'Toole.

Senator Terry Leyden: Thanks for the help. Senator O'Toole has been here for longer than me.

Senator David Norris: I agree with my colleagues who welcomed the massive intervention of the EU in the form of its financial rescue package. The position is serious. If one considers the figures in terms of public debt expressed as a percentage of GDP, Greece is No. 1 at 124.9% and Ireland is No. 4. However, if one examines other figures, such as the budget deficit expressed as a percentage of GDP, Ireland unfortunately has the lead position at twice the European average. It is a worrying situation.

We should also consider having another general economic debate. The Leader has promised the House rolling debates. There is an inevitable logic to a degree of centralisation, harmony and political concentration within Europe. This is the lesson of history. It occurred with Prussia where a customs union preceded political and financial union.

I hope we will find an opportunity to take No. 15 of the non-Government motions on the Order Paper in the name of myself, Senator O'Toole and the Fine Gael Party regarding the rating agencies. It is open to the Labour Party, the Green Party and Fianna Fáil to sign up to our motion, as we all agree on this matter.

Archbishop Ryan is a courageous and decent man.

Senator Nicky McFadden: Martin.

Senator David Norris: I beg the House's pardon. Archbishop Martin is a courageous and decent man. It is difficult to hear him say he is disheartened and that there are forces within the church. We know there are forces from yesterday's newspapers, according to which Cardinal Schönborn of Vienna stated that one of the principal officers of the church, perhaps Cardinal Sodano, had inhibited the inquiry into Cardinal Groer of Vienna and the molestation of young priests in an academy in Vienna. This was shocking. Archbishop Martin is right and decent people in the church deserve support.

Will the Leader draw to the Government's attention the fact that Adams' auctioneers just down the road from here will, at 5 p.m. on 18 May, hold an auction of important documents relating to the Famine? On Sunday, Murrisk in County Mayo will hold a commemoration of the Famine, one of the most devastating events in this country's history. The documents originated in a solicitor's office and I am unsure as to who will gain from them. Some of them are rather expensive. They are a moving record of the tragedy. One document from Mount Blakeney in County Limerick states: "The potatoes are beginning to look very bad". I am glad to see that a Church of Ireland clergyman appealed on behalf of an evicted tenant, but many other members of the clergy did not behave so well. This record should be in the possession of the State. I hope the letter from Sabrina Purcell, whose grandparents were touched by the Famine, will be acted upon by the owners of these letters and that they will be given to the people. I am also hoping the Government may be in a position to purchase at least some of them.

Senator Mark Dearey: I agree, in some respects, with Senator Fitzgerald that a debate is necessary on the implications of the measures to protect Economic and Monetary Union which were announced at the weekend. One of the assurances provided during the second referendum campaign on the Lisbon treaty was that it would not pave the way for European Union interference in Ireland's tax affairs. Another such assurance was related to our fiscal independence. It was these assurances that many of us who are currently Members of the House highlighted

for the people during the referendum campaign. If there is to be a measure of fiscal union in order to protect monetary union, the logical conclusion one must reach is that another referendum will be required.

Senator Alex White: Good luck with it.

Senator Mark Dearey: A wide-ranging debate is commencing on the decisions taken by EU Finance Ministers at the weekend. This matter must be addressed by the House at an early stage, but I do not necessarily believe we should discuss it today.

I agree with Senator Quinn on the issue of competitiveness. All of the innovation reports and stand-alone initiatives in the world will not do any good unless the cost of doing business is brought back into sync with general costs in the jurisdictions our near neighbours and direct competitors. However, Ireland is becoming more competitive again. We no longer have a currency, *per se*, to devalue and need to find value within the economy. That is beginning to happen. I live in the Border region and I am aware, for example, that retail prices have fallen by approximately 8%. This is due, in part, to some of the measures one of the large supermarket interests has taken in its supply chain. However, there are also other factors involved. Prices in the North have gradually been creeping upwards, particularly in towns such as Newry where there has been over-trading. That competitiveness is beginning to return is evident from both footfall and retail figures in the town in which I reside. I must be careful, however, not to overstate the position in this regard. We must continue to restore competitiveness. Our work in this regard must proceed until the country is once again in a fit state to compete.

Senator Eugene Regan: When I consider the extent of the measures adopted by the European Union in solidarity with certain member states, including Ireland, all I can say is, "Thank God for the Lisbon treaty". The solidarity clause contained in Article 122 of the treaty states the Union can provide financial assistance for member states that are in difficulty as a result of exceptional occurrences. It is upon this essential provision that the package announced at the weekend is based.

International markets do not respect borders or the sovereignty of member states. The European Union has done more to protect the sovereignty of this country than could any measure we might ourselves take. There is not a loss of sovereignty in playing the game in respect of the management of our budget, the public finances and the economy. In 2001, when Mr. McCreevy was Minister for Finance, Ireland was the first member state to break the Union's guidelines in respect of its finances. Despite a reprimand from Brussels to the effect that we were spending too much and that the public finances were getting out of order, the then Minister for Finance confirmed that he intended to continue spending. That was the point at which we lost our way. It was when we considered that we knew best and could, as a result of our high growth rates, go it alone, but we now know the folly of the position we adopted at the time. The former Minister for Finance indicated that he would ignore the Union's censure on the grounds that inflation was already coming down and that the measures he had taken the previous December were necessary in order to maintain social partnership. All we need to do is to play the game and recognise the economic reality, namely, that we must co-ordinate our economic policies with those of other member states. We must also adopt honest, transparent and consistent policies. It was announced in the budget that policy on public service pensions would be reformed. On Friday last, however, we did a U-turn and changed our position in this regard. I do not know whether there is a saving to be made in making such a change, but we must be consistent in the policies we adopt. We must explain our position more fully to the European Union if we hope to avail of the support available.

Senator Paschal Mooney: I welcome the meeting yesterday between the Minister for Tourism, Culture and Sport and representatives of the tourism industry to address the adverse impact of the volcanic ash on this country and its potential continuing adverse impact on the tourism industry. In this light, I repeat that it would be timely and useful for the Minister for Tourism, Culture and Sport to be invited into the House to discuss tourism strategy, as she now has read herself into her brief and has met the various sectors in the tourism industry, as well as Fáilte Ireland's strategy for the future.

While I agree with the sentiments that have been expressed on the other side of the House and especially by Senator Alex White on the implications of the agreement between the eurozone members last weekend, I must robustly reject his allegations that the Taoiseach is not defending the sovereignty of this country. This is not the first time the Labour Party has attempted to smear the Taoiseach in respect of his national priorities and his patriotism. He is as good a patriot as anyone in this House.

Senator Alex White: On a point of order, I seek the protection of the Chair. To make a political charge is not to smear a member of the Government. To make a political criticism is not a smear.

Senator Jerry Buttimer: Hear, hear.

An Cathaoirleach: I took the charges made by the Senator to be political.

Senator Paschal Mooney: A political charge still is a political charge.

Senator Alex White: It is not a smear. The Senator knows what smears are.

An Cathaoirleach: Please Members, Senator Mooney without interruption.

Senator Paschal Mooney: Having attacked the Taoiseach in that way, Senator White should reinterpret what the Taoiseach said yesterday. He might do well to listen to Senator Regan's contribution earlier to get a proper interpretation of what it was about.

Senator Jerry Buttimer: What happened in 2001?

An Cathaoirleach: I apologise but I should have called Senator John Paul Phelan a little earlier.

Senator John Paul Phelan: I will forgive the Cathaoirleach this time. I wish to note my agreement with Senator Fitzgerald and other Members who have called for a debate on banking and on the recent announcements in respect of Greece and the safety net being put in place by the eurozone's members for other future eventualities. I completely and utterly disagree with Senator Dearey as Members should be having this discussion today. While I note the Leader indicated that banking legislation is coming before the House next week, significant developments took place over the weekend and when one considers what is scheduled for the Seanad this week, there is no excuse for not having a discussion on banking and on what has been agreed.

This has been symptomatic of what the Government has done with regard to the banking crisis from the outset. It put forward its proposals without engaging in meaningful discussion on the available alternatives. I happen to agree that Ireland's support for Greece in this particular situation is necessary, as the potential cost to the Irish Exchequer for not supporting Greece and for that country to default would be much higher than what is being put into Greece. However, such a debate certainly should be held in the Seanad.

Senator Fidelma Healy Eames: Hear, hear.

Senator John Paul Phelan: It is not good enough that for the past month, Members have been specifically seeking a debate on the position regarding Greece, which simply has not happened. If Members wish to make Seanad Éireann relevant, surely they should be discussing the major issue of the day, which for the last couple of weeks——

Senator Donie Cassidy: We have debated the banks in three of the last five weeks.

An Cathaoirleach: Please.

Senator John Paul Phelan: Members have not debated specifically on the agreement on Greece——

Senator Donie Cassidy: The Senator's comments are incorrect.

An Cathaoirleach: Please.

Senator John Paul Phelan: —— or on the developments regarding the eurozone over the weekend.

Senator Donie Cassidy: The record speaks for itself.

Senator John Paul Phelan: No, actually it does not.

Senator Donie Cassidy: Yes it does.

Senator John Paul Phelan: The record is pretty appalling.

An Cathaoirleach: Members, please.

Senator John Paul Phelan: Moreover, the House also has not had a debate in recent weeks on Anglo Irish Bank. Senator Coghlan raised an important point, which is that the European Commission reverted to the Government with 101 questions pertaining to its proposals in respect of Anglo Irish Bank. Members also should have a discussion on this issue as soon as possible.

I believe Senator Coghlan made a mistake previously when he seconded an amendment to the Order of Business that had not been proposed, namely, to have a discussion on accident and emergency facilities in regional hospitals nationwide. I second that particular amendment. Proposals have been drawn up by the HSE that appear to have been put on the shelf in recent weeks. It is apparent that the heads of many of the sections within the HSE are familiar with the proposals with regard to the closure of accident and emergency facilities nationwide but politically, for some reason, they have been shelved and there should be a full discussion in this regard at the earliest opportunity.

Senator John Hanafin: I share the sentiments expressed by those Senators who spoke in support of Archbishop Martin of Dublin, in particular of his suggestion that certain elements are still reacting inappropriately, to say the least, to the crisis that has struck the church over its handling of child sexual abuse. The situation has not changed. Canon Law is at one with the State law. There is no dichotomy; they are *ad idem*. This crime is regarded as a heinous crime in both State law and Canon Law. There is no doubt that everybody in the State must comply with the State law and the people who are responsible under Canon Law must comply with Canon Law and State law. That is quite clear and that cannot change.

[Senator John Hanafin.]

I thank the Leader for the amount of time he has given and continues to give to facilitate debate on the banking situation and the outside influences in the economy, and I support the calls for debate in this respect. I am conscious that the model of banking that existed in this part of the world, in particular the City of London and on Wall Street, was one that did not work and that gave us the severe crisis that now exists in the financial services area. Hedge funds in the mercantile exchange have now put a €15 billion bet against Greek debt. That is a serious matter, which requires legislation to deal with the abuse of the financial system by certain sectors in the financial services area. I am conscious of the seriousness of abuse in this area. The Great Depression was caused by an excess of credit, which led to many severe consequences throughout Europe and helped the spread of extremism in politics, including the rise of fascism.

Given that Members mentioned the Easter Rising on the Order of Business last week, it is appropriate to mention the 65th anniversary of the Second World War, which took place last week, and pay tribute to those allies who fought against the cancerous tumour of fascism.

Senator Jerry Buttimer: I welcome the immediate banning of substances sold in head shops and compliment Senator Wilson and other Senators who were very much to the fore in the campaign to ban them, Grainne Kenny in particular, who has been a champion in this respect, and RTE's "Liveline" programme, despite Senator Leyden's misgivings about it, which has very much led the charge to ban these products.

Senator Paschal Mooney: Both of them were honourably mentioned.

An Cathaoirleach: No interruptions, please.

Senator Jerry Buttimer: The decision to ban head shop products is but one step on the journey. It is unfortunate we still lag behind other countries in tackling the issue of head shops. I ask the Leader to provide time for a debate on head shops, especially on measures that can be taken to pre-empt the arrival of new products on the shelves of head shops. We must never allow the drugs trade to go underground or drug lords to prosper in our society. Today the Government has listened to the will of the people and to the requests of those on the Opposition benches.

I request a debate on the role of the church and that of the State. Archbishop Martin, in what he said, unleashed the need for yet another debate on this matter. As somebody who is a beacon of hope and a great leader of his flock and of us all, he deserves to be listened to, but if there are dark and evil forces within civic society or within religious life, they must be rooted out and we must never allow evil to prosper. As Senator Hanafin rightly said, Canon Law and civil law are now equal and the rule of the law of the land is the law that we must all follow. It is important that we have a very long debate on this matter.

Senator Geraldine Feeney: I congratulate the Minister, Deputy Harney, on the great sanction she has introduced. I also congratulate Senator Wilson, as others have done, on raising the matter in question 18 months ago in the House. As one who participated in that debate, I recall the Minister, Deputy Harney, saying she would not speak first because she wanted to listen to the views of Senators. She took them on board and I congratulate her on doing that. I note that Senator Wilson said this issue could go off the agenda but we must not allow that to happen.

I have asked that another matter, that of child abuse, should be kept on the agenda forever. I stand with other Senators in supporting Archbishop Diarmuid Martin in this respect. I was heartened by the fact that he was disheartened and discouraged. He stated that since taking

office he had never felt as disheartened in terms of the unwillingness of some sections of the church to address the issue. I agree with Senator O'Toole who said there was a cover-up in this regard. During the debate on the Murphy report there was not one Senator who sang from a different hymn sheet from that with which we all came into the House. It would be worthwhile for us to debate the issue again. The church is troubled and divided. The cover-up by some sections of the church will destroy rather than protect it. I agree with others who said we must support good men like Archbishop Martin, Bishop Walsh and other clerics. I was not surprised to hear the Archbishop say what he said. The public is aware that the reaction of the church has not been as good as we would have expected. If we can bring the good sections of the church with us, we will not alone save the church but will also give peace and comfort to those who were abused and ensure it will never happen again.

Senator Ciaran Cannon: I seek an urgent debate on the reprioritisation of the budgetary allocations. The most human reaction to an entity, be it a country, community or family, experiencing difficult economic circumstances is to protect the most vulnerable by building around them a shield to protect them from the biting winds of recession. However, we appear to have done the opposite. We are allowing those winds to damage and hurt the most vulnerable in society, in particular, children with special needs.

Senator Fidelma Healy Eames: Hear, hear.

Senator Ciaran Cannon: Last night I met two parents of two young children, one a year and a half old and the other two years old, with severe disabilities and special needs. The two women concerned are doing the best they can for their children. They tell me that every support upon which they have been relying is slowly being taken from them, leaving them with nothing other than the support of family and friends in meeting the difficult challenges facing them. What judgment call or system of morality is guiding the decisions being made that allows the people concerned to suffer in that manner? For example, it was recently decided that it was appropriate to spend €4.5 million on the construction of a vulgar mansion, twice the size of the house of the Canadian Prime Minister, for our ambassador in Canada, yet we do not deem it appropriate to spend that amount of money on the most vulnerable in society. I am convinced there remains an enormous amount of waste within the budgetary allocations. For this reason, there is a need for a forensic analysis, perhaps expanding on the very good work done by Mr. Colm McCarthy, to identify the areas in which there is such waste. In doing so, there should be no sacred cows. I include in this our overseas development aid package which appears to be protected from such a forensic analysis.

An Cathaoirleach: There are 11 speakers remaining on my list. However, as there are only six minutes remaining, I can only take questions from three more Senators. The remaining Senators may ask their questions tomorrow morning.

Senator Mary M. White: The rise in the number of healthy older people in Ireland and around the globe constitutes a major social and scientific advance, perhaps the most significant in the past century. In 1900 average life expectancy for a woman was 49 years. Today it is 81.6 years, an increase of 32.6 years, a phenomenal social and scientific advance that is constantly ignored. Older and Bolder, an organisation which represents eight non-governmental organisations in the ageism sector, invited gerontologist Professor Desmond O'Neill to prepare a paper on work and ageing in the context of its analysis of the national pensions framework. Yesterday, in Buswells Hotel, Professor O'Neill launched his document, Ageing, the Demographic Dividend and Work. Professor O'Neill found that it is increasingly clear that older workers represent an important resource for industry, public services and the economy but the framework

[Senator Mary M. White.]

for developing workplaces and policies supportive of working later in life in Ireland leaves much room for improvement. Older and Bolder——

An Cathaoirleach: Does the Senator want a debate? We can have a debate if she seeks one from the Leader.

Senator Mary M. White: In my capacity as spokesperson for older people in the Seanad — everyone knows I produced a policy document on a new approach to ageing and ageism — I call for an urgent debate on the issue of mandatory retirement. It is archaic and out of date. I succeeded in having included in the programme for Government in 2007 that people would have a choice about when they retired. Older and Bolder also supports this. In March, Professor O'Neill, a titan in the work on ageing and enhancing the lives of older people on this island, received an All Ireland Inspirational Life Award, which I am driving North and South.

Senator Rónán Mullen: I want to echo some of the comments made by colleagues on Archbishop Diarmuid Martin's very fine speech, which I read in full and which I encourage people to read. It deserves a very wide readership as he touches on many highly important issues. I welcome the interventions of Senators Twomey and Fitzgerald asking him to go further and to clarify some of what he stated on people in denial who do not want the full truth of this terrible story to come out. Let us be clear that any denial of what is true or any minimising of what is evil is contrary not only to Christianity itself but to good citizenship. I would like to see Archbishop Diarmuid Martin go further and engage in robust debate with those he feels are in denial. That culture of openness and honest discussion is precisely what we need. I have stated previously that the church should not be afraid of a diocesan-wide inquiry. The truth will set us free. Yes, there will be need to criticise aspects of what the media do and there will be occasional distortions. There will also be people who will disagree with Archbishop Martin; he is not without his critics. However, if there is open debate then the quality of arguments on all sides can be tested. Archbishop Martin has done us all a real service in his very fine speech and clear analysis. I urge him in his work of leadership to stay the course and keep up the good work.

I also want to mention briefly the comments by the Minister for Education and Skills about the possibility of those failing higher level maths, scoring a grade E or lower in the leaving certificate, being accepted into universities. Surely it is not beyond the bounds of possibility to come up with a leaving certificate maths paper whereby someone failing honours would not pass the pass paper either. Alternatively, people should be given an opportunity to sit another maths exam if they fail so they can meet whatever matriculation or college entry requirements are in place. However, the idea of accepting E grades is a race to the bottom.

An Cathaoirleach: Is the Senator seeking a debate? Does he understand time? A number of Senators will not get in.

Senator Rónán Mullen: We should have a discussion on this and I would welcome the Minister for Education and Skills to the House. I hope she joins us very soon.

Senator Ann Ormonde: I commend the Senators who congratulated the Minister for Health and Children, Deputy Harney, on her decision to ban certain legal substances. I go along with that and I hope that ultimately the premises selling them will be closed down because that is the wish of the majority of people in the country.

Some time ago, I raised the issue of private cosmetic clinics. I am not calling for a debate on this issue but surgeons fly into the country to perform operations and then fly out again after

them. There is no follow-up. The Minister has spoken about regulating how these clinics operate. I am not calling for a debate but will the Leader convey the concern of the public about how these clinics operate? It is important we keep that on the agenda.

I was delighted to hear the comments by Members on both sides on the speech by Archbishop Martin, who must be supported. Perhaps we should have a debate on the role of the church and the State in education because they are all connected. That would be a welcome discussion which would include child protection because there are still people who are in denial.

I support what Senator Mullen said in regard to the mathematics paper. Now more than ever we must have a debate on that issue because many students are making up their minds whether they will take the honours or the pass paper. I know it will be not introduced this year but the debate should start now on our plans for, and the decisions to be made, in 2012.

Senator Maurice Cummins: On 27 April I asked the Minister of State, Deputy Mansergh, if it was intended to amend the NAMA legislation in view of the European Commission's proposals. He indicated there was no such intention. I also asked him a number of other questions on that occasion which he was unable to answer but I thank him for coming back to me today with answers to those questions.

In one of the answers, the Minister for Finance indicated that it will be necessary to amend the NAMA legislation and that he intends to do so at the earliest possible opportunity or, to quote him, at "the next legislative opportunity" as soon as it arises. When will that opportunity arise and when will we have that amendment to the NAMA legislation?

I thank the Minister for Health and Children for banning these substances in head shops. A third head shop opened in Waterford recently. I understand that a number of them will close today because of the Minister's announcement. I hope that will continue and that these substances will not be introduced under any other guise. There should be a requirement that all substances should be passed by the Irish Medicines Board and the Food Safety Authority of Ireland before they are allowed to be sold.

Senator Nicky McFadden: I join with Senator Fitzgerald in calling for the Minister for Health and Children to come to the House today to discuss issues concerning us in regard to accident and emergency services and health in general. Will the Leader co-operate with this House and order a debate on the relevance of politics in society? I raise this issue in the context of the HSE and how it, without any influence from politicians, has *carte blanche* to close accident and emergency departments and nursing homes, as it did in Athlone last Thursday—

An Cathaoirleach: The Senator will raise that on the Adjournment. I do not want it raised now.

Senator Nicky McFadden: —and without a Health Information and Quality Authority report even being published. Is the Minister even relevant to the HSE? What relevance do politicians have to the HSE? I urge the Leader to arrange such a debate.

As one of the people who first raised in the House the issue of head shops, I congratulate the parents who were so brave in highlighting their personal plight. Along with the drugs awareness groups and Grainne Kenny, these people should be commended. The Minister had the gumption to listen to them.

An Cathaoirleach: I call the Leader to reply.

Senator Ivor Callely: How many Members are left to speak?

An Cathaoirleach: I call the Leader to reply.

Senator Ivor Callely: Will the Cathaoirleach state how many Members indicated——

An Cathaoirleach: Some 24 Members have spoken and six failed to get in. I will call them first tomorrow.

Senator Donie Cassidy: Senators Fitzgerald, O'Toole, Alex White, Quinn, Dearey, Regan, John Paul Phelan and McFadden expressed serious concerns about health issues. In regard to the high standards of care, I can state first-hand that the care a family member of mine experienced in Mullingar hospital over the past two weeks was of the highest standard and I compliment all those concerned.

Senator McFadden raised the relevance of politicians and the Minister to the HSE. This is an urgent matter which must be dealt with. I will look at the diary of the House in the coming days and will come back to it at the earliest possible time. I certainly agree to such a debate because there are issues, concerns, understandings and misunderstandings in every county and it is time the situation was clarified and that the Minister came to the House to do so for all Members who are the representatives of the people. We are not faceless representatives; we are public representatives representing the people and the taxpayers. I will give a commitment that such a debate will take place.

I refer to the call for a debate on the Brussels package and the eurozone decisions. I welcome the upturn in the markets yesterday which reassured the world in regard to how the European Union conducts itself. Ireland is being looked at as a shining example in terms of how it dealt courageously with the difficulties the Government faced and how the trade union movement and a number of members of the Opposition supported the call in the national interest. In these very difficult two weeks, members of trade unions are making up their minds about the Croke Park deal and are putting the country before their families and political affiliations. The people can feel proud of the undertakings of those in authority representing the trade union movement. I look forward to them helping the people and the Government in the serious decisions they must make in regard to the challenges that lie ahead for our country over the next two or three years.

Senators Wilson, O'Toole, Glynn, Leyden, Buttimer, Feeney, Ormonde, McFadden and Cummins raised the issue of head shops and congratulated Senator Wilson on his steadfast determination that this House would be to the fore in raising the plague of head shops. I join colleagues and thank Senator Wilson and all Members who raised this issue. I also thank the Minister, Deputy Harney, for bringing the issue to Brussels and for getting such an early decision in this regard. I understand that this morning the Minister for Justice and Law Reform brought details of a Bill on this matter to Cabinet. Legislation will be brought before the House for its consideration at the earliest time.

Senators Fitzgerald, O'Toole, Twomey, Coghlan, Norris, Hanafin, Buttimer, Feeney, Mullen and Ormonde called for further consideration of the Ryan and Murphy reports in the House. I refer to the views of Bishop Willie Walsh, which I heard today, and the statements Archbishop Martin made yesterday in regard to the serious concerns he has that not enough is being done. We want to support him in every way we can. If crimes are being hidden, as Senator O'Toole said, no one can condone that. As Senator Hanafin said, everyone must comply with the laws of the State. I will review the situation with the leaders every week. If time is required to debate this issue, I will be very supportive.

Senators Alex White, Ó Brocháin, John Paul Phelan and Mooney raised the issue of the bank guarantee. On Thursday, 20 May the House will have a day long debate on legislation

related to the situation in Greece which will be debated in the Dáil on Wednesday week. The Minister will be present for the debate in the House, at which time Senators may raise concerns and issues related to the European Union. I have listened to the views of colleagues on EU protection for Irish sovereignty, the Lisbon treaty and other issues. These matters can be discussed during the debate.

Senator Mooney welcomed the Minister for Tourism, Culture and Sport's meeting with representatives of the tourism industry yesterday. He also noted the serious challenges facing the sector and the opportunities arising from the current difficulties with air travel. Given that our constituents must holiday somewhere, there is no better time to support the domestic tourism industry. I will liaise with the Minister to find a suitable time for a lengthy debate on how we can address the problems being experienced in this, one of the most difficult years for a long time.

Senators Twomey, Coghlan and John Paul Phelan called for a further debate on Anglo Irish Bank. I do not have a difficulty with holding such a debate. Senator Coghlan who raised the issue of a good bank will be aware that in 1934 the late great Seán Lemass who later became Taoiseach established ICC Bank which became the backbone of small and medium enterprises. I hope progress can be made in this area again, possibly using an arm of Anglo Irish Bank. Its incoming chairman, former Minister for Finance, Mr. Alan Dukes, is disposed to this proposal.

I fully concur with the sentiments expressed on the challenges facing small and medium-sized enterprises on an hourly rather than daily basis. I have never seen anything like the current position on the availability of funding from the banks. Money must be made available and if the banks are not prepared to do so, the Government has a duty to ensure access to funding.

Senator Glynn called for a full debate on types 1 and 2 diabetes. It was unfortunate that the previous debate was short. This was due to the need to take pressing legislation. I will not have a difficulty in allowing the longest possible time for such a debate.

Senator Leyden called for a debate on the Broadcasting Commission of Ireland and the need for balance in the national broadcaster. I have agreed to provide time for such a debate. The national broadcaster has a duty under the Broadcasting Acts to ensure balance. To the vast majority this does not appear to be the case, which is a great shame. Ireland and its people have achieved a great deal. This should be recognised. I, therefore, call on the national broadcaster to show balance because it is destroying confidence among those who are providing employment. All of those involved in the broadcasting sector have a responsibility to guide people through this difficult time, rather than taking a whingeing attitude, as they are doing. They must accept their responsibility in this regard and exercise it in the best interests of the people and Ireland plc.

Senator Norris referred to motion No. 15 which calls for the establishment of a special committee of the Seanad to examine the origins, backgrounds and policies of the international rating agencies, with particular reference to their impact on the State. I will examine the issue later and revert to the House tomorrow. The Senator also indicated that the State should be interested in acquiring certain items to be sold at auction.

Senator Hanafin expressed serious concerns about outside influences on the economy, in particular hedge funds. The company to which he referred spent a vast sum on a gamble. The Senator also referred to major abuses in financial services. The House can show its worth by debating the issue. I will see what I can do to provide time for such a debate.

Senator Cannon asked that the Minister for Health and Children come before the House to discuss children with disabilities, the challenges facing their parents, especially those on low incomes, and other matters. He speaks on the basis of his experience of the representations

[Senator Donie Cassidy.]

made by his constituents. I have agreed to have the Minister come to the House for a lengthy debate and the matters he raises may be discussed at that point.

Senator Mary White referred to the compulsory retirement age in the public service and noted that older people had much to contribute in terms of their energy and experience. The Government will examine the matter which can be debated in the House in the future.

Senators Mullen and Ormonde referred to the leaving certificate examination and the assistance that could be provided for students who were making up their minds on whether to take honours or pass papers. Their proposal to have the Minister for Education and Skills come before the House to discuss the matter is worthwhile and I will try to arrange such a debate. Senator Ormonde also raised concerns about consultants. I will convey her views to the Minister.

Senator Cummins referred to the legislation on the National Asset Management Agency. All legislation passed by the Oireachtas must be amended from time to time. This is especially true of the NAMA legislation because it relates to an area of high risk. I look forward to assisting the Government in ensuring NAMA proceeds in the most efficient and effective manner possible.

Senator McFadden called for a debate on the relevance of politics, with particular emphasis on the role of the Health Service Executive. I will not have a difficulty in arranging such a debate.

An Cathaoirleach: Senator Fitzgerald has proposed an amendment to the Order of Business: “That a debate with the Minister for Health and Children on her proposals to address the cuts in accident and emergency services throughout the country be held today.” Is the amendment being pressed?

Senator Frances Fitzgerald: Yes.

Amendment put.

The Seanad divided: Tá, 21; Níl, 28.

Tá

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

Mullen, Rónán.
Norris, David.
O’Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Quinn, Feargal.
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.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.
McDonald, Lisa.
Mooney, Paschal.
Ó Brolcháin, Niall.

Níl—*continued*

Ó Domhnaill, Brian.
 Ó Murchú, Labhrás.
 O'Brien, Francis.
 O'Malley, Fiona.
 O'Sullivan, Ned.

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

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

Amendment declared lost

Order of Business agreed to.

Fines Bill 2009: Report and Final Stages

An Leas-Chathaoirleach: I welcome the Minister, Deputy Dermot Ahern. I remind Members that a Senator may speak only once on an amendment on Report Stage except the proposer of an amendment who may reply to the discussion on the amendment. On Report Stage each amendment must be seconded.

Bill recommitted in respect of amendment No. 1.

Government amendment No. 1:

To delete the text inserted by amendment 35 in committee and substitute the following:

“13.—(1) A notification under *subsection (2) of section 15* 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.”.

Minister for Justice and Law Reform (Deputy Dermot Ahern): The purpose of this amendment is to limit the requirement for personal service of documents or service by registered post to the notification required under section 15(2) of the Bill as passed by Dáil Éireann, instead of applying this requirement to all notices and documents to be served on or given to a person under Part 3.

Section 15(2) provides that a recovery order shall not enter into force unless the person in respect of whom their order is made fails to pay the fine by the due date of payment. It further provides that where the person so fails, the order shall have effect from the day immediately

[Deputy Dermot Ahern.]

following the day on which the Courts Service notifies the receiver concerned in writing that the person has failed to pay the fine by that date.

This is a critical notification as it will activate the recovery order and trigger action by the receiver when he or she is notified that a person on whom a fine has been imposed is in default. For that reason it is important that arrangements for the service of this particular notification are clearly defined in primary legislation. New rules of court may be made by the
 4 o'clock rules committees of the various courts to make provision regarding the service of other documents pursuant to the new jurisdiction conferred on the courts by Part 3 of the Bill. It is not necessary for the Bill to prescribe the manner of service of, for instance, a direction under section 13(5) as passed by Dáil Éireann, requiring a person to attend court for the purpose of assessment of his or her financial circumstances because there is an inherent power to make rules of court where new jurisdiction is given to the court. The same applies to directions under section 14(1) of the Bill, which provides that where a person has made an application to court, the court may direct that the fine be paid by instalments. The manner of service of this direction can also be determined by court rules.

Personal service of or delivery of these latter directions by registered post would not be required in all instances. These are matters best left to court rules in order to optimise the flexibility to the Courts Service in determining the manner of service and to contain postage and other administrative expenses. I recommend the amendment to the House.

Amendment agreed to.

Bill reported with amendment.

An Leas-Chathaoirleach: Amendment No. 3 is an alternate to amendment No. 2 and amendment No. 4 is related. It is proposed to take amendments Nos. 2 to 4, inclusive, together by agreement.

Senator Ivana Bacik: On a procedural point, does it mean that if the Government amendment No. 2 is accepted, my amendments Nos. 3 and 4 fall?

An Leas-Chathaoirleach: That is correct.

Senator Eugene Regan: It will not be accepted. They are outnumbered.

An Leas-Chathaoirleach: If the Government amendment No. 2 is accepted, amendments Nos. 3 and 4 cannot be moved.

Government amendment No. 2:

In page 11, to delete lines 27 to 30 and substitute the following:

“(3) For the purpose of this section, 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, but in any case a court shall not impose a fine that is—”.

Deputy Dermot Ahern: As I mentioned in my speech on Second Stage, the indexation of fines scheme is based on the Law Reform Commission report of 1991 and a review of the developments on the indexation of fines published by the commission in 2002. In 2002 the commission recommended that the court should have the ability to take into account, in determining the level of a fine in a particular case, the financial circumstances of the offender and the burden the payment of the fine would have on the offender or his or her dependants.

The commission further recommended that a court should have regard to such matters irrespective of whether the effect of so doing would be to increase or to reduce the amount of the fine. This is in order to convey the principle of equality of impact upon offenders of different means. The commission reiterated those recommendations in a further report in 2003.

The concept of equality of impact is a central tenet of the Law Reform Commission's recommendations and of the Bill. This issue has been closely examined by the Office of the Attorney General and the drafter has looked at it again since Committee Stage. In late 2003, the Attorney General advised that, in light of the dictum of Mrs. Justice Denham in the DPP *V. M* [1994] 3 IR 306, he could foresee no difficulty with a provision which provides for a court increasing or reducing a fine, after the financial circumstances of the offender have been taken into account. In that case, Mrs. Justice Denham stated at page 316:

However sentences must also be proportionate to the personal circumstances of the appellant. The essence of the discretionary nature of sentencing is that the personal situation of the appellant must be taken into consideration by the court.

The concept of equality of impact can broadly be described as the principle that penalties should be so calculated as to impose an equal impact on the offenders subjected to them. This effectively means that fines should be capable of adjustment to reflect the means of offenders so as to ensure that the hardship imposed by the fine has equal impact whatever the means of the offender. This would accord with the policy that the State should have regard to differences in capacity.

The purpose of the section, as outlined in subsection (1), is to ensure that the effect of a fine on a person or his or her dependants is not significantly abated or made more severe by reason of his or her financial circumstances. Subsection (3) expressly refers to the purpose of the section, which is set out in subsection (1), and could in no way be construed as giving the court an unfettered discretion. Even without such express reference, the court would be acting contrary to the section if it increased or decreased a fine for a purpose other than that set out in subsection (1).

While I cannot accept the amendments of the Labour Party Senators, I would like to try to allay concerns by substituting the proposed new formulation I have outlined for subsection (3). While it does not alter the substance of the section, it is clearer in making more definite the linkage between subsection (1), which specifies the purpose of the section, and subsection (3), which provides that the court, having assessed the person's financial circumstances, may impose a fine that is greater or less than, or equal to, the otherwise appropriate fine.

Senator Ivana Bacik: I welcome the Minister and thank him for taking the time to consider the points I made, supported by Senator Regan, on Committee Stage. This is an important point and I do not believe the Minister's amendment No. 2 deals with the issue we raised on Committee Stage. I am aware of the Law Reform Commission recommendations. I accept that the effect of the fine should not be made more severe because of the person's financial circumstances. The difficulty lies in the power given to the court in subsection (3) to impose a fine which is greater than the otherwise appropriate fine. My alternative amendment would delete subsections (3) and (9), thereby enabling the court to take into account financial circumstances without stating it can impose a fine greater than the otherwise appropriate fine, having regard to the offender's financial circumstances.

I am conscious of Mrs. Justice Denham's words in DPP *v. M*, and of the emphasis she gave to the principle of proportionality which has been accepted generally in the sentencing courts. That principle is the difficulty here. The effect of the section, even with the Minister's amendment which does not make it much clearer, is that a court can determine a fine to be "otherwise

[Senator Ivana Bacik.]

appropriate” and decide that an offender who is especially wealthy should be made to pay a higher fine than that which is deemed appropriate.

In a nutshell, my difficulty is that this would treat wealth as an aggravating factor in sentencing and I am not sure that fits the principle of proportionality. It is entirely appropriate that a court should be able to impose a lesser fine than the otherwise appropriate one in ease of the accused, where the accused’s financial circumstances are such that his or her own situation or his or her dependants’ situation would be made more severe by reason of their financial circumstances. In other words, poverty should be allowed to mitigate but it is not necessarily a good idea, or constitutionally in keeping with the proportionality principle, to allow wealth to constitute an aggravating factor. It is as if we are saying that a judge can choose a benchline sentence and then look at the mitigating factors by which to reduce it and at the aggravating ones to increase it. Here, the offender’s wealth is the only factor that will allow the court to increase a fine above what would otherwise be appropriate and I am somewhat concerned about this.

The Minister said he would look at the matter and I am grateful he has done so but am not sure his amendment will answer the difficulty. It seems a court may still impose an unreasonably larger fine, with a detrimental effect on the convicted person.

Senator Jim Walsh: Perhaps the Minister will clarify this. The point raised by Senator Bacik may relate to people of very limited means. My literal interpretation of the amendment is that the situation is covered in that the fine can be less than the otherwise appropriate fine. I assume, therefore, the judge would have some discretion in that area.

In general, the principle is probably right. However, I mentioned, perhaps on Second Stage, that it is important this should not become the predominant issue in determining the fine. There are scales of offending which must be factored into the situation. Speeding would be a case in point where a person, depending on the speed he or she is doing can be in greater contravention of the law than a person who is only marginally over the speed limit. I would not like to think that just because the person who was marginally over the limit had good financial resources he or she would in some way be penalised unjustly in that regard. The nature and scale of the offence must form part of the judicial discretion in determining the appropriate fine.

Senator Eugene Regan: I agree with Senator Bacik on this point. It is unfortunate that, although the Government made an amendment, it did not see fit to reformulate the wording in question. What is appropriate is what is proportionate, fair and reasonable. It is not to speak about what is “otherwise appropriate” and then make changes. I can see the intent. We all agree on that, namely, to provide for the mitigation of a fine because of financial hardship. One can also apply a higher fine in the reverse direction. However, the wording, “appropriate or otherwise appropriate”, is where the problem lies.

Deputy Dermot Ahern: This is all based around the concept of equality of impact which works both ways. Obviously, the judge cannot impose a fine of more than €5,000, the overall limit for the District Court. Equally, in individual cases judges cannot impose a fine greater than the maximum that pertains to the particular offence. However, the intention is to allow discretion to the judge to take into account the personal circumstances.

The recommendations of the Law Reform Commission state:

The reforming legislation should also provide that when a court is determining the amount of a fine it should, in so far as is practicable, have regard to, amongst other factors, the

financial circumstances of the offender and the nature of the burden that payment of a particular fine will impose upon the offender and his dependants. In this regard the legislation should also provide that a court should have regard to such matters irrespective of whether the effect of so doing would be to increase or reduce the amount of the fine.

Clearly, the view always was that this fine could go up or down and that it was entirely a matter for the discretion of the judge to determine the otherwise appropriate fine. I have tried to deal with this. We reformulated the subsection and that is why a Government amendment was tabled. The original subsection was that with which Senators found fault.

Senator Ivana Bacik: As proposer, I believe I can speak on this one more time. In answer to Senator Walsh, I have no problem with the idea that a fine should be less than what would be otherwise appropriate because that is in ease of the defendant. The principle of interpretation of a criminal statute is that what is in favour of the accused or the defendant would apply. That is not the difficulty which, as Senator Regan noted, is not that the court can impose a greater fine by virtue of the accused's financial circumstances but the fact that the fine is greater than what would otherwise be appropriate. What would otherwise be appropriate, by applying the principle in *DPP v. M* and that adopted by sentencing courts generally, is the reasonable and proportionate fine. The danger is that the current formulation allows a court to impose an unreasonably and disproportionately high fine simply because an offender has greater means. That may be a difficulty.

As Senators Regan and Walsh stated, we all agree with the Law Reform Commission's principle of equality of impact and the idea that financial circumstances be taken into account. However, in proposing that we amend the section by taking out subsections (3) and (9), I am simply trying to ensure the court stays within current parameters of sentencing in having regard to the financial circumstances of an accused.

Senator Eugene Regan: I make a brief intervention. When the Minister quoted the judgment of Mrs. Justice Denham, he spoke about coming to determine the appropriate fine and that one should have regard to the financial circumstances. The way in which coming to a determination of the appropriate fine is formulated in this Bill, however, is that one first determines the appropriate fine and then juggles with it in accordance with the offender's financial means. I do not believe that was how Mrs. Justice Denham formulated the approach. The appropriate fine has regard to the financial means. One should not decide on the appropriate fine and then mess about with it.

Senator Jim Walsh: I have one brief comment. How will the judge determine the financial position of the person before him or her? Many people who were very wealthy some years ago may now be quite poor and perhaps even in negative equity between their assets and liabilities. How will the judge be aware of that in order to make a determination when it may not be public knowledge? I have a small concern as to how the judge can adjudicate on a person's ability to pay a higher fine when such a judgment might depend on a perception.

Deputy Dermot Ahern: I cannot put it any other way other than reiterating the point that it was always envisaged, when the Oireachtas was passing legislation, that a judge had discretion as to the maximum fine to impose. We are putting into law a much more definite regulation, in effect, and obligation on a court to determine the personal financial circumstances of people before it. I accept the point made by Senator Bacik but, to a certain extent, what she has suggested does not happen. A judge will not purposely impose a fine on a person because he or she regards them as more financially able to pay a fine. A fine would not be based on financial circumstances.

[Deputy Dermot Ahern.]

This is geared to answer Senator Walsh's query about how the judgment is determined. It is determined on the basis of section 13, which 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." The judge would have to hear evidence on the amount of the person's annual income, the average value of property, real and personal, and the average amount of liabilities. We had discussions on that before. This is designed to deal with circumstances where, for example, three people are before the court on similar offences. The financial circumstances would be taken into account in all three cases to ensure the people were able to afford the appropriate fine as decided by the judge. The formulation we have arrived at clearly links the new subsection (3) to the purpose of this section. Subsection (2) states "Where a person of full age is convicted of an offence, the court shall, in determining the amount of the fine (if any) to impose in respect of the offence, take into account the person's financial circumstances."

Amendment put.

The Seanad divided: Tá, 29; Níl, 22.

Tá

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

MacSharry, Marc.
McDonald, Lisa.
Mooney, Paschal.
Ó Brolcháin, Niall.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
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.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.

McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Toole, Joe.
Prendergast, Phil.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Ivana Bacik and Dominic Hannigan

Amendment declared carried

Amendments Nos. 3 and 4 not moved.

Bill, as amended, received for final consideration.

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

Minister for Justice and Law Reform (Deputy Dermot Ahern): I thank the Leas-Chathaoirleach and those Senators who contributed to the debate. The Bill is at the cutting edge of law reform. The indexation of fines will result in a dramatic change to the way in which the District Court, in particular, does its business. The Bill will place a large onus on them in the initial phases. It will ensure the monetary value of existing fines will be brought up to date and that their real value when introduced will be regained.

I am glad to have introduced these provisions which I hope will ensure the majority of those fined in court will not, following a knock on their door, be hauled off to Mountjoy Prison. Not only will the Bill stop this occurring, but ordinary people who might never have had the law after them will also be dealt with more humanely. We must also ensure, however, that those who clearly can pay but refuse to do so will be punished. If individuals who can pay do not comply with a court order, they can be imprisoned. This is a much more humane way of operating and it will assist us in dealing with the exaggerated claim that the majority of those in our prisons are there for the non-payment of fines.

I thank Members, the staff of the Houses and my officials for the work they have done in assisting the Bill's passage through the House.

Senator Eugene Regan: I welcome the fact that the Bill which is long overdue is about to be passed. The first report on indexation was published by the Law Reform Commission in 1991. Fine Gael published a number of Bills dealing with this issue, but each of them was voted down. The Minister is correct to state the Bill contains a number of important innovations. The provision relating to a structured indexation of fines is normal in nature. However, providing for payment in instalments and taking into account the financial means of persons found to have committed offences are good and welcome innovations. The Bill will have a significant effect in reducing the numbers needlessly committed to prison. It is these individuals who are clogging up the prison system.

Senator Ivana Bacik: I also welcome the passage of the Bill, particularly the changes it makes in allowing the courts to impose community service orders where persons default on fines, empowering them to make provision for payment by instalment, etc. As previous speakers stated, it is to be hoped this will reduce the shocking numbers who are imprisoned for defaulting on fines and clogging up the prison system at great human, social and economic cost.

I thank the Irish Penal Reform Trust for briefing us on the Bill and providing its views on it. I welcome the fact that we are passing legislation which will go some way towards reducing our over-reliance on imprisoning people and, by increasing the use of community service orders, make imprisonment a genuine penalty of last resort.

Senator Jim Walsh: I also welcome the passage of the Bill. The Minister has made significant improvements in the imposition of fines. Their indexation is good and probably long overdue. There have been considerable increases in the consumer price index both during times of significant economic growth and at times when such growth did not occur. As a result of their not being index-linked during such periods, the deterrent effect of fines was eroded to a serious degree.

I welcome the fact that it will now be possible to pay fines by instalments. However, I would like the legislation to have gone further in respect of attachments. In that context, attachments to earnings could assist in overcoming many of the difficulties in this regard. As the Minister indicated, the thrust of the legislation is to avoid sending people to prison which, apart from anything else, is an extremely costly exercise for owing small amounts of money. Comparisons

[Senator Jim Walsh.]

are often made with white collar crime in this regard and it is stated those who are better off are able to escape due process. There are those who will always endeavour to pay their bills, even if it causes them significant personal difficulty and leads to their making sacrifices. However, there are others, including people with good earnings and also certain individuals on social welfare payments, who believe the world owes them a living and who, as a consequence, are not forthcoming when it comes to paying fines. In such circumstances attachments to earnings and social welfare payments should be considered. Such attachments would provide a means by which we might tackle the non-payment of fines. For the first time we are setting down in legislation that people's financial circumstances and means should be considered as a factor in the judicial discretionary process. This will enable judges to deal with those who take advantage of the situation rather than trying to make a genuine attempt to pay the fines imposed upon them.

I agree with Senator Bacik on the use of community service orders. However, I retain a strong, lingering concern about the interpretation of financial circumstances contained in the Bill. This matter should be monitored closely, particularly as there is potential for an injustice to be visited upon individuals. The current economic climate has transformed the financial circumstances of many individuals, some of whom were, by any standards, significantly wealthy. Now, however, they find themselves at the opposite end of the scale. Many of those to whom I refer will find it difficult, either for reasons of confidentiality or pride, to provide in open court a full list of the value of all their properties, income, liabilities and moneys owing to others, etc. The provision of such information will give rise to problems for some, particularly in view of the fact that their cases will be heard in the District Court. Newspapers in their localities will be glad to publish articles containing the information to which I refer and which might emerge in court. As stated, the position in this regard will have to be monitored because of the potential for an injustice to be visited upon someone. I do not know how it might be possible to carry out such monitoring, but it must be done. The provision of confidentiality for those to whom I refer should also be considered.

Question put and agreed to.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: Ag 10.30 maidin amárach.

Adjournment Matters

Accident and Emergency Services

Senator Liam Twomey: I thank the Minister for Tourism, Culture and Sport for coming into the House to take this matter.

It has been reported that the HSE has made a decision to close accident and emergency departments in hospitals throughout the country. I specifically refer to the services provided at Wexford General Hospital in this regard.

A transformation programme has been discussed with public representatives and stakeholders throughout County Wexford during the past six months. The purpose of such discussions is to debate the transformation of all health services in the county. However, when one hears that accident and emergency services at Wexford General Hospital are under threat of closure, one gets a sense that people are being misled and treated in an underhand way by the HSE.

There is a lack of confidence not only in the HSE but also in the Government in respect of how health services in County Wexford are being operated. A number of acute beds at Wexford General Hospital were closed during the past 12 months and there are now plans to close St. Senan's Psychiatric Hospital, Enniscorthy, from next February. In addition, one hears talk of reduced services in the accident and emergency department in County Wexford. The excuse being given is that this pertains to the European working time directive. However, the directive has been in place for the past 15 years and clearly very little has been done on how it affects the delivery of services in acute hospitals.

The next excuse is that there is a lack of junior doctors. For years Ireland's health services have been run by exporting its own doctors and importing doctors from Third World countries. If there is such a lack of junior doctors, clearly there is a problem with the quality of some junior doctors. This issue has been highlighted previously but, again, nothing has been done about it. There also appears to be a problem with securing immigration visas for Third World doctors to work in the health service which contributes to the problem in providing hospital services. I do not know whether this constitutes a deliberate plan on the part of the HSE to somehow hinder the provision of doctors for accident and emergency departments, thereby enabling it to use this as an excuse to reduce services both in accident and emergency departments and other acute hospital provided services such as surgical services, both nationwide and in the south east, in particular.

If this measure is allowed to go ahead, it will put patients' lives at risk and certainly cause significant morbidity among patients because the ambulance service is not ready to take up the slack in transferring patients between Wexford and Waterford. Similarly, in Wexford there is a very good GP out-of-hours service which patients find highly satisfactory. However, it is not geared to taking over the role of dealing with accident and emergency cases. No discussions have taken place with Caredoc, the out-of-hours GP service, to even consider providing some of the out-of-hours accident and emergency services. Moreover, the GP service is under pressure. There is no confidence that the Minister for Health and Children will do her job for the people of County Wexford, if she intends to continue reducing services at Wexford General Hospital and in County Wexford while giving the impression that the Government has no plan or strategy. The Minister should indicate to Members what is Government policy in this regard. How will it affect accident and emergency services at Wexford General Hospital? What is the status of the transformation programme? I do not believe Members are getting the full truth from either the HSE or the Minister and that this is contributing to people's fears with regard to the provision of health services in County Wexford.

A number of protests have been organised in County Wexford, just like elsewhere in the country. There is a genuine role for an accident and emergency department at Wexford General Hospital, as Wexford is situated too far away from Waterford. Were the accident and emergency department at Wexford General Hospital to go, too many patients would be more than an hour's journey from either Waterford Regional Hospital or any of the accident and emergency departments located in Dublin. Some people in the north of the county would be obliged to travel to Dublin rather than trying to find their way to Waterford. However, a significant portion of the population of the county simply would be unable to access the accident and emergency department at Waterford Regional Hospital in a timely manner, with or without the assistance of either the ambulance service or the out-of-hours Caredoc service.

The Government is putting patients' lives at risk as County Wexford lacks both the requisite paramedics and trained personnel. Many of the county's general practitioners have received no accident and emergency service training. Moreover, very few of them have any experience of working in accident and emergency departments or acute trauma and life support services, in other words, of dealing with people involved in serious accidents either at work or by the side of the road. From this perspective, there is a need to keep the accident and emergency

[Senator Liam Twomey.]

department open in order that patients can be seen quickly both to save lives and reduce the incidence of morbidity for patients if delays occur in securing the appropriate services at the appropriate time.

I have tabled this Adjournment Matter to receive an indication from the Government on where it stands on the issue. The perception of people in County Wexford is that they are being treated in an underhand fashion by the Government and that they are almost being deliberately misled by it as to its plans for the future of the county's health services. There has been no response from the Government to HIQA's recommendation that St. Senan's hospital be closed. Clearly, it intends to try to let the issue to fester until a last minute decision is made. This is also happening with regard to the accident and emergency department at Wexford General Hospital, that is, the Government is allowing the issue to fester before making a decision at the last minute. This is no way to treat the patients or people of County Wexford. The Minister should respond in a manner that will alleviate their concerns.

Senator Lisa McDonald: I thank Senator Twomey for sharing time with me. I support a great deal of the comments he made.

There is something underhand happening. Oireachtas Members have been brought to meetings by the HSE for nearly a year and have been drip-fed information. It is almost as though they have been brought down a particular road in an attempt to have them agree the accident and emergency services in Wexford should be reduced substantially. This is fundamentally and morally wrong.

In common with my parents and grandparents, I was born and bred in County Wexford. My family comes from south of Wexford town and the Wexford town area. Like Senator Twomey, we are from the larger hub of the county, in which the population is predominantly located. While some areas are closer to Waterford, I spoke to a lady on Friday who has a sick little boy who needs immediate care when he becomes ill. Although she lives in the bottom part of the county, at times it has taken her two and a half hours to get to Waterford Regional Hospital because one must cross the bridge at Ross, the bridge at Waterford and then get through Waterford city.

It is morally hazardous and wrong to expect a county as large as Wexford which has a population of 130,000 people to be without an accident and emergency service. If it is policy to prevent Members, as politicians, to intervene when something as fundamental as an accident and emergency department is under threat in a county the size of Wexford, they must question their position as politicians. I also will put this question to the Minister for Health and Children, Deputy Harney, because to leave this decision to clinicians negates Members' role as politicians. Matters such as the provision of accident and emergency departments or maternity services in a county as large as Wexford are the subject of political decisions. I support Senator Twomey in this Adjournment Matter.

Minister for Tourism, Culture and Sport (Deputy Mary Hanafin): I thank Senators Twomey and McDonald for raising what obviously is an important issue for them and County Wexford. On behalf of my colleague, the Minister for Health and Children, Deputy Harney, I will ensure the issues raised will revert directly to her. I reiterate that the Government is committed to ensuring the delivery of the best quality health service as possible and providing the highest possible standard of patient care in an effective and efficient manner within the resources available.

Wexford General Hospital plays an important part in the HSE south-east hospital network and there are no plans to lessen its importance in the provision of services. It provides acute services for a local population of 130,000 people. It benefits from a committed workforce who in 2010, in line with the hospital service plan, will provide services for approximately 13,000

inpatients, 6,700 day patients, 36,000 emergency department attendees and 2,300 mothers who will give birth in the maternity unit. In addition, it deals with more than 56,000 outpatient attendees each year. It has strong partnerships with colleagues working in the primary, community and continuing care sectors and aims to provide patients with fully integrated services.

In accordance with its transformation programme, the HSE is reviewing the current configuration of acute hospital services in the south east. A steering group is developing a plan for hospital reconfiguration that will deliver optimal and cost-effective services that are easily and readily accessible. The group comprises four clinical directors, one from each hospital, as well as the hospital network manager, and is supported by specialist advisory groups. All hospitals in the south eastern hospital group, namely, Wexford General Hospital, Waterford Regional Hospital, South Tipperary General Hospital and St. Luke's Hospital, Kilkenny, will be included in the plan for the revised model of care. No decisions on the roles of or services provided in any hospital will be taken until the plan is completed, following broad consultation within the services and with stakeholders generally. The review is expected to be completed and proposals brought forward later in the year.

The Government has shown its commitment to Wexford General Hospital in recent years with capital developments such as a new day oncology unit, an education centre and on-call accommodation. The hospital will continue to play a key role in the provision of hospital services in the south east.

Senator Liam Twomey: I have been made aware from my contacts that there is a crisis in terms of the budget and the lack of availability of junior doctors, but that was not addressed in the Minister's reply. She should have been informed of that before she delivered her reply. Clearly, that crisis has been covered up in that it has not been admitted nor addressed. It was not dealt with in the Minister's reply. Most of her reply covered information contained in the HSE south-east report. The oncology unit, to which she referred, was paid for by the people of Wexford — they raised funds for it. I am disappointed that someone did not give the Minister an adequate answer to address what I know the HSE is talking about behind closed doors right now.

An Leas-Chathaoirleach: Does the Minister wish to reply?

Deputy Mary Hanafin: As this is not my Department, I am not in a position to give that information to the Senator, but I will pass on his comments to the Minister.

Care of the Elderly

Senator Nicky McFadden: I thank the Minister for being present to reply to this matter. I raise this matter in light of the fact that 30 staff members and 25 residents were informed at separate meetings last Thursday that Loughloe House, a HSE-run nursing home, is to be closed within two months. The nursing home has been situated on this site for 30 years. It is a relatively modern building on the banks of the River Shannon. It is ideally situated. It is all on the one level and, therefore, there is no fire hazard or other such risk.

The bottom line is that the 25 residents were informed at a meeting separate from the staff that Loughloe House is to be closed within two months. However, the Health Information and Quality Authority has informed me that the HSE has not yet responded to the report that it carried out on the nursing home. I find it incredible that the HSE is making a decision to close the nursing home without at least publishing that report or letting public representatives, the families of the people concerned and the staff know how much it would cost to carry out the necessary work to bring the nursing home up to the required standard.

The news of the closure of Loughloe House has left its residents, some of whom have been living there for 20 years, in shock. They are to be relocated to private nursing homes and this

[Senator Nicky McFadden.]

has caused widespread upset and distress. Residents, especially those who are relatively fit and mobile, have told me that they are extremely comfortable in their surroundings and are familiar with the other residents and staff. These people are their family and this is their home. They are familiar with the smell and the texture of the place. If I had been living in a centre for 20 years, I would not want to move. A move to alternative accommodation is completely alien to them. How will it affect their health and well-being?

The content of the HIQA report should at least be made public before a decision is made on the future of the facility, as should the number of inspections to which the facility has been subjected and the opportunities Loughloe House has been given to rectify any inadequacies. If this facility is as bad as has been alluded to by the HSE, how was this allowed to happen? That is the bottom line. The manager of the HSE is in charge of it. How has this been allowed to happen if the facility is as bad as has been stated? What steps have been taken by the HSE to resource the centre?

There is genuine fear about the effect this change will have on the residents, some of whom are in their 90s and some of whom have no families to speak on their behalf. I am concerned that the shock of having to move to unfamiliar surroundings will cause them undue stress, adversely affect their health and may even cause some of them to die. That is a very dramatic statement but that is my concern.

The possibility that a care centre has not been staffed, adequately funded and allowed to fall into a state of disrepair to facilitate its closure must not be tolerated. The announcement by the Minister, Deputy Harney, in Athlone on Sunday that the closure of Loughloe House will free up staff for another facility was inconsiderate and dismissive of the residents' feelings and their plight.

I hope the Minister will not give me a pat answer from the HSE as I will not be able to cope with it because I am emotionally involved with these people. They are my friends and they are old people. I ask that this decision be stalled until at least the contents of the HIQA report have been made known and the issues of the necessary funding and cost involved to bring the facility up to the required standard can be dealt with.

Deputy Mary Hanafin: I thank Senator McFadden for raising this issue which is obviously a sensitive one for the residents and their families. The Government is committed to supporting people to live in dignity and independence in their homes and communities for as long as possible, but where this is not feasible the health service supports access to quality long-term residential care where this is appropriate, and we continue to develop and improve health services in all regions of the country and to ensure quality and patient safety.

The Health Service Executive has sole operational responsibility for the delivery of health and social services, including those at facilities such as Loughloe House. The Senator is obviously well aware of Loughloe House and is very familiar with its residents. It is a former welfare home and shares the site with day services for older persons for the area.

All developments have to be addressed in the light of the current economic and budgetary pressures. The executive has been asked to make a rigorous examination of how existing funding might be reconfigured or re-allocated to ensure maximum service provision is achieved. In particular, we need to ensure the highest standard of care will continue to be provided to all patients in a safe and secure environment.

As a welfare home Loughloe House once accommodated up to 40 patients of lower dependency. In recent times, given the increasing dependency of clients and other challenges, the number of residents has fallen to 25. Of the 25 residents, the longest resident has been there for 14 years while the most recent arrival was a year ago.

Loughloe House is one of two long-stay facilities in Athlone, the second being St. Vincent's community nursing unit, CNU, which is situated in the town centre. There is only a distance of approximately a mile between the two units. In St Vincent's CNU there are approximately 60 residents. There is the one management structure for the two units.

At a broad strategic level, the overall plan for HSE services in Athlone had been to transfer all services to the Clonbrusk area of the town where lands were purchased by the Midland Health Board in 1999. This would have allowed the proposed Clonbrusk campus to become the hub for HSE service delivery in Athlone. This plan would have facilitated the closure of Loughloe House as well as allowing several other premises to be vacated. In anticipation of these plans, spending on existing infrastructure, including both Loughloe House and St Vincent's, was limited in recent years. That answers the Senator's question as to the reason there was no investment in the facility. It was intended to move services to the Clonbrusk site. Given the current financial constraints, the anticipated developments at Clonbrusk have been curtailed and the construction of a new community nursing unit on the site has been postponed for the foreseeable future.

Senator Nicky McFadden: Until 2016.

Deputy Mary Hanafin: As a result of this there are significant challenges for both Loughloe House and St. Vincent's in meeting the necessary HIQA requirements, given the design, age and conditions of the two buildings.

Loughloe House has been inspected by HIQA. Numerous concerns have been raised in the course of this inspection both in terms of the physical infrastructure and in regard to management and staffing issues. Concerns also exist regarding the fire safety precautions at the home. With these considerations in mind, the Health Service Executive has decided that it has no option but to proceed with the orderly, phased closure of Loughloe House.

There will be a consultation process with residents and their families with a view to organising transfers into private or public nursing homes in the surrounding areas. This consultation was scheduled to be taking place around this time. There are more than sufficient vacancies to cater for the residents of Loughloe House. The safety of the residents is our first concern. We owe them a duty of care. I am sure the House will agree that quality care and patient safety comes first and all patients should receive the same high standard of quality-assured care.

The Minister for Health and Children does not have any further update since the report that was completed on 29 April, but if the Senator wishes to raise the matter again with the Minister, she will have it re-examined and obtain more up-to-date information for her.

Senator Nicky McFadden: Could the Minister ascertain how much it would cost to bring Loughloe House up to the standard HIQA requires? I am not talking about St. Vincent's, only about Loughloe House.

Deputy Mary Hanafin: I will have to put that question to the Minister for Health and Children.

Tourism Industry

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire. I tabled this Adjournment matter last week but, unfortunately, it was not selected until today. I acknowledge the work done by the Minister since last week when I first tabled this motion. There is need for a wider debate on the strategy we as a country need to have in place for tourism if we are to attract more visitors and to assist the Irish tourism industry, and not just in monetary terms.

The Joint Committee on Arts, Sport, Tourism, Community, Rural and Gaeltacht Affairs last week met a delegation from Tourism Ireland, Fáilte Ireland and the Irish Hotels Federation.

[Senator Jerry Buttimer.]

While not wishing to be negative, the tourism industry is in difficulty, many people employed in it are losing their jobs and the country is losing revenue as a result of falling tourist numbers. Leadership is required from Government if we are to stop this never-ending spiral.

There were one million fewer visitors to Ireland last year, leading to a fall of €1 billion in revenue. I understand from speaking to people in the hotel and restaurant industry that we have excess bed capacity in hotels. However, that is perhaps an issue for another day. To date, 30 hotels and 800 pubs have closed, resulting in the loss of approximately 10,000 jobs. If we are serious about job retention and creation in our tourism industry, we must do all we can to prevent this rot. We must recognise that the daily job losses in this area are a consequence of bad political, business and planning decisions.

The Irish Hotels Federation identified at last week's committee meeting a number of positives which we must ensure are highlighted, including the quality of our hotels and guesthouses, many of which are of a much higher standard than those in any of our European competitors. The federation also said we must highlight customer satisfaction. The Irish Hotels Federation has, where possible, reduced costs, thereby allowing its cost base to become more competitive. There has been much debate on the competitiveness of the industry. I am aware of discussion within Government about joint labour committees and the cost of working on Sunday in our restaurants and hotel industry. There is much that can be done by Government, including scrapping the departure tax because it is hurting the economy. This is an issue on which I am sure I will hear political argument from the Minister. VAT rates on hotel accommodation and restaurants are also hurting the industry. We must take care of our small and medium restaurants and hotels.

Last week's Dine in Cork week, which received massive promotion by the *Evening Echo*, was a huge success. One could not get a restaurant booking in Cork last Saturday night owing to the huge demand as a result of reduced prices. The quality of food and service was unbelievable. I know from speaking to friends of mine who work in the industry, be they chefs or restaurant owners, that it was a huge success. I know, having visited Boston, which runs a very successful restaurant week, that we must think outside of the box in terms of coming up with ways to entice people into our restaurants. This is not just about handing out aid.

We have been told by Government that the tourism industry is worth €500 million. The Taoiseach, during his Cabinet reshuffle, stated that the tourism industry is one of the key pads for the relaunch of Ireland. We need to reduce our taxes, including the departure tax, and encourage people to visit Ireland if we are to rejuvenate our ailing tourism industry and promote businesses which are indigenous to Ireland. In particular, we must address with the banks the issue of liquidity and cashflow for restaurants and businesses. We must also assertively and aggressively promote the domestic market. I am aware, having heard this morning on "Today with Pat Kenny" and previously on other radio stations, that there is tremendous goodwill for the tourism industry and Ireland. It is important we sell the island of Ireland to the people of Ireland. One has only to take a Twenty-six Counties tour, as promoted in the Shannon campaign, to appreciate the product we have to offer.

I look forward to hearing the Minister's reply. We have an extraordinary product that should be sold domestically and internationally. I commend the chief executive of Aer Lingus on his bravery in terms of seeking different data in respect of the Icelandic volcano. While I am not qualified to make any judgment in this regard, I believe he is right to challenge the *status quo*.

Deputy Mary Hanafin: I thank Senator Buttimer for raising this issue. The volcanic ash issue is not alone important in terms of its impact on us but in terms of its impact on the Irish economy, jobs and revenue.

The total value placed on the Irish tourism industry is approximately €5 billion, including domestic and international tourists to Ireland. Last year, seven million tourists visited Ireland. While this figure was down on the previous year, it is a significant number of tourists. The tourism industry provides employment throughout all the regions. Thus small and medium-sized enterprises are benefitting. The tourism budget for this year has been increased owing to the Government's commitment to ensuring this industry is supported and is in a position to attract people to this country.

Senator Buttimer mentioned some of the terms key to the industry, including quality. The quality of service we offer is something we are always happy to promote. The Senator also referred to the quality of our food, festivals and activity holidays. A range of new initiatives are being addressed. We are also focusing on promoting value. While 98% of people who came on holidays to Ireland said they were happy with their experience here, somewhat fewer, approximately 70%, believed they received good value, which must be addressed.

There is a robust policy framework surrounding Irish tourism. The Tourism Renewal Group examined the sector in 2008 and set out what would be the framework up to 2013. It examined issues such as the impact of current challenge and recovery actions in terms of trying to set tourism back on a growth path. We are vigorously pursuing this framework with huge co-operation from all the industry and agencies, including Fáilte Ireland and Tourism Ireland.

The tourism budget was increased by 2% to more than €150 million, maintaining funding in real terms for the tourism marketing fund. We also trebled the funds for product development. Again, there are some exciting proposals in this regard coming forward from far-flung regions of the country. Tourism was included in cost-cutting measures to support enterprises and jobs, including the employment subsidy scheme and credit review system, which will be important in light of the banks not freeing credit and liquidity, as Senator Buttimer stated.

Additional specific measures, including changes in excise duty on alcohol and VAT and the introduction of the innovative rail travel initiative for senior citizens visiting Ireland, will also help the sector. I believe the rail travel initiative has huge potential as it will mean everybody over the age of 66 years, irrespective of from what country they come, will be able to avail of free rail travel in Ireland. There is currently a huge marketing campaign in this regard.

This year will be challenging. We had already set a target of increasing the number of tourists by 3% when hit by bad weather in January and February. This was followed by problems with sterling, the poor economies throughout Europe and the eruption of the Icelandic volcano. There is no doubt but that we have met some serious challenges. The tourism industry is fighting hard for business. Tourism Ireland, as the body responsible for promoting Ireland as a visitor destination, is focusing on major markets likely to deliver immediate returns, in particular Great Britain, Germany and the US. Only last week I launched a €20 million summer marketing campaign focusing on those markets. Some 60% of our visitors come between May and September and, as such, we still have an opportunity to attract visitors to this country.

Fáilte Ireland has launched a €4 million advertising and promotional campaign to encourage holidaying at home this year. It will seek to boost promotion of business tourism and the opening in September of the new National Conference Centre which undoubtedly will enhance our capacity to attract international events. Fáilte Ireland has been provided with €20 million for its capital investment programme this year to improve attractions, activities and tourism related infrastructure. It will also invest in business, sporting and cultural events.

As the Senator mentioned, tourism businesses, like many others, are experiencing difficulties with regard to capacity, costs and credit supply. Some of these will be addressed by the tourism industry and others will be addressed by the Government, for example the supply of credit to businesses and the reduction in energy prices. The Government and agencies will continue to work to help the sector, whether in stimulating demand, helping to address costs and pro-

[Deputy Mary Hanafin.]

ductivity, or securing access to credit. Of course, the tourism industry itself has made great strides to reduce costs and increase productivity.

Fáilte Ireland is working closely with tourism businesses throughout Ireland. Business supports assist key tourism businesses to increase their international customer base, better manage costs, improve overall performance and marketing particularly on the web and sustain employment levels. I mentioned the €20 million to be spent on marketing and that will be used on 41 different websites in 19 different languages. The most up-to-date facilities are being used for marketing.

I mentioned the volcano and the difficulty and challenges it has formed. The Senator mentioned the meeting we had yesterday and I must state the response of the tourism industry and the agencies has been very positive and we look forward to developing a customer charter which will be based and build on the good experience we had in the past month. The hospitality industry responded in such a way as to ensure that anybody who was delayed while in Ireland was well looked after; they did not face increased accommodation charges, many of them had their laundry done and they were given free access to activities. Building on that, we want to send a message throughout the world that in the unlikely event one is delayed in Ireland one will be looked after. We will do this confident that the Irish tourism industry will respond as this will be a voluntary code by the industry itself, supported by Fáilte Ireland and promoted well.

The message is that Ireland is open for business; we are accessible and we will look after people. It is a difficult time but with a good policy framework, the increased investment we have, the partnership between the public and the private sectors and the good State agencies we have I am quite confident that Ireland's tourism industry will rise to the current challenges. I genuinely look forward to continuing to work with it.

Senator Jerry Buttimer: I thank the Minister for her reply. However, I note she did not make any reference to the travel tax. Based on her experience yesterday, is the Minister willing to host a tourism forum similar to what happened in Farmleigh regarding the economy? I am concerned that the top end of the market is under severe pressure. We are all driven by value and competitiveness and the top end of the market is falling. Dublin city centre is lacking upper-end hotel accommodation. What is there between the top of Gardiner Street to the top of Grafton Street? Cork does not have a convention centre and does not receive assistance from Government in this regard.

Deputy Mary Hanafin: I would not underestimate the value of the Dublin convention centre, which has the potential to attract major conferences, particularly medical, scientific and pharmaceutical conferences. Our aim is that when people come to Ireland for these that they take an extra few days to play golf and visit the other regions.

The airport tax is a hot potato as some would say it is impacting on tourism. We do not yet have any evidence to state that is the case because so many other factors are impacting on tourism. The difficulty is that the Department of Finance reckons it will bring in €125 million this year and that would be difficult to find somewhere else. Over the coming years we would like to keep it under review.

We have a tourism response group which meets if an issue arises. It meets regularly. I attended yesterday's meeting with Fáilte Ireland, Tourism Ireland, the Irish Tourist Industry Confederation, the Irish Hotels Federation, the Incoming Tour Operators Association, representatives of the bed and breakfast sector and the Department. We regularly get together with all the representative bodies.

The Seanad adjourned at 5.25 p.m. until 10.30 a.m. on Wednesday, 12 May 2010.