

SEANAD ÉIREANN

Dé Céadaoin, 23 Meitheamh 2010.
Wednesday, 23 June 2010.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Business of Seanad

Senator Joe O'Toole: On a point of order, it might be worthwhile for the Cathaoirleach to write a letter to Members of the House explaining that 12 Members need to be present in the Chamber before he can come in. Some Members have the view that he arrives late but he and I know that he cannot come in until a quorum is present. It is becoming a self-fulfilling prophecy as Members think we will not begin until 10.40 a.m. and they do not arrive until then. They have forgotten that the Standing Orders are very clear on the fact that there must be 12 Members present before business can begin. It might be helpful if Members were reminded of this by the Cathaoirleach at the next appropriate opportunity.

An Cathaoirleach: I will do so. With regard to the late starts, I have to wait outside for a considerable period. People wonder whether something is wrong with the bell but it cannot be turned off until we begin.

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

The need for the Minister for Health and Children, in light of serious questions which arise from the content of documents released to Senator MacSharry under the Freedom of Information Act as directed by the Information Commissioner, to hold an independent review of governance standards in the HSE and the Health Information and Quality Authority; to give an evaluation of the relationship and interaction between both organisations; and reform of the 2004 Health Act in order to introduce some level of public accountability to our health service.

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

The need for the Minister for Community, Rural and Gaeltacht Affairs to provide a life-boat and equipment to save lives on the River Shannon in the Athlone area and its environs.

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

The need for the Minister for Tourism, Culture and Sport to outline the assistance she can provide to the De Paul swimming pool, Navan Road, Dublin 7.

[An Cathaoirleach.]

I regard the matters raised by Senators MacSharry and McFadden as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret I have had to rule out of order the matter raised by Senator Donohoe as the Minister has no official responsibility in the matter.

Order of Business

Senator Donie Cassidy: The Order of Business is No. 1, Criminal Justice (Psychoactive Substances) Bill 2010 — Order for Second Stage and Second Stage, to be taken at the conclusion of the Order of Business and conclude at 3 p.m., if not previously concluded, on which spokespersons may speak for 12 minutes and all other Senators for ten minutes and Senators may share time, by agreement of the House; No 2, Merchant Shipping Bill 2009 — Committee and Remaining Stages, to be taken at 3.30 p.m., adjourn at 5 p.m. and resume at 7 p.m., if not previously concluded; and No. 35, Private Members' motion No. 16 on environmental protection, to be taken at 5 p.m. and conclude not later than 7 p.m. The business of the House shall be interrupted between 3 p.m. and 3.30 p.m.

Senator Maurice Cummins: I had the pleasure yesterday of being present at the reopening of Waterford Crystal which has given a renewed a sense of belief and spirit in the people of Waterford. While the Government was prepared to see this iconic brand name relocate outside the country, the city manager and the city council put their money where their mouths were, made investments and negotiated with the holding company, WWRD. As a result, we now have Waterford Crystal back in operation in Waterford, with the creation of 70 jobs. I make this point not for parochial reasons but to reinforce the point that local authorities can and should be the driving force behind local employment initiatives. All of the quangos involved should be placed under the umbrella the of local authorities because they contain the people with the knowledge and expertise required.

I read in the newspapers today that the Government is making plans to introduce a property tax and that people will be asked to pay between €250 and €3,000 in charges when the budget is agreed. At a time when there are 300,000 in negative equity, many of whom are in dire straits because of the policies of the Government, is it now the intention of the Government to crucify them?

It is almost one year since the McCarthy report was published. It provided detailed recommendations to streamline Government services, cut costs and achieve greater value for money. It now transpires from answers to parliamentary questions that only one of the ten recommendations made in the report has been implemented. The Government has avoided dealing with all of the difficult issues such as public sector reform and the multiplicity of organisations in operation. For example, in 2008 it announced a merger of the National Consumer Agency and the Competition Authority, but it has still not introduced a Bill in this or the other House to give effect to that decision. That is an example of the paralysis evident within the Government. It seems that it is prepared to take the soft option and hit homeowners — the typical response of this failed Government. It is time to wake up and introduce the policies which are necessary to bring the country back to prosperity.

I suggest we have a debate soon on local government to bring all of the quangos under the umbrella of local government. We would then see a better response by local government on employment issues. That is where we can make a difference.

Senator Joe O'Toole: Last week I referred to the decision-making process in the Department of Finance, the absence of records showing how oral advice had been given, the need for a

paper trail in policy determination and the recording of the advice given by advisers. I am glad to recognise that yesterday the Minister for Finance, Deputy Brian Lenihan, said he was initiating an inquiry to establish exactly how that would be done. This is very much to be welcomed, as we are all aware of the involvement of senior civil servants in the decision-making process and policy determination. We also need a paper trail to check how something fits in with general Government policy. It would be very helpful if the Minister for Finance came before us to explain the terms of reference for the proposed inquiry which I welcome. We could also discuss with him the terms of reference for the banking inquiry, an issue raised by my colleagues in Fine Gael two or three times in the past month or two. The Minister indicated at a recent meeting of the Joint Committee on Finance and the Public Service that he was willing to discuss the issue, take advice, listen to views and consult on it, which would be very helpful.

I do not know if the Cathaoirleach has noticed that there is a time in the month when suddenly there is a surge of activity on the part of political parties, namely, on the Monday and Tuesday prior to publication of a Red C poll. This week we have seen a surge of activity on the part of the Green Party which is having a go on the issue of planning, at the Labour Party and other matters. There is nothing particularly wrong with this, but we have seen how polling can be corrupted and perverted and exert a destabilising influence on parties, politics and the people. I wonder if we should have a view on this issue and communicate with *The Sunday Business Post*. It might be better if it published the findings of the poll at a different time every month because it is creating a problem for the *apparatchiks* and political parties—

Senator David Norris: Hear, hear.

Senator Joe O'Toole: —which are urging their bosses to say something more and more ludicrous on the third Monday or Tuesday of each month in order to hit the headlines and have an impact on polling.

Senator David Norris: Damn political pole-dancing.

An Cathaoirleach: No interruptions, please. We are taking questions to the Leader.

Senator Joe O'Toole: I am not having a go at the Green Party, as Fine Gael also does it. It is normal. The people are being undermined and fooled by it. A similar approach caused chaos in some parties in recent times. We should be aware of this and let the general public know what is going on.

Senator Dominic Hannigan: It is welcome that the new accident and emergency department at Our Lady of Lourdes' Hospital in Drogheda is opening today. This is one of the most important hospitals in the north east and 7,000 children were born there last year. I believe one of our Members became the parent of a baby in the hospital just yesterday. The new extension, which cost €11 million, will be able to treat up to three times as many accident and emergency patients as it did previously. That is great news for the region and the hospital after the bad press it has received of late. Let us hope this new development allows the hospital to turn a corner and look forward to a bright future.

Yesterday the Minister for the Environment, Heritage and Local Government, Deputy Gormley, announced a review of the planning procedures of six local authorities, including Dublin and my county of Meath, perhaps with a view to increasing his party's position in the polls to 2% or 3%. The Minister's action is somewhat high-handed. We are all aware from our debate on the planning and development legislation that many councils are concerned about the way he enforces his opinions without attempting to include them.

[Senator Dominic Hannigan.]

It is a bit late in the day to be conducting a review given that many of the problems with planning in this country arose during the 1990s and the vast majority of counties have cleared up their acts since. We need to know what this review will comprise and whether it will merely be a paper exercise rather than invoking powers of censure. It appears to be a simple naming and shaming exercise by the Minister. I do not want to prejudge the outcome of the review but it is important that we have an opportunity to debate its findings.

Senator Dan Boyle: I agree that the findings of the review announced by the Minister for the Environment, Heritage and Local Government should be discussed in the House. Given our recent history and the role that planning played in the problems we are facing in this country, I am amazed that people, particularly the Labour Party, would question the need for a review or——

Senator Dominic Hannigan: That is not what I said.

An Cathaoirleach: No interruptions, please.

Senator Dan Boyle: ——an exercise in accountability.

Senator Dominic Hannigan: I suggested it sounded like a paper exercise.

An Cathaoirleach: The Senator had an opportunity to speak.

Senator Dominic Hannigan: No Labour Party member has ever been found guilty of any issue in regard to planning.

An Cathaoirleach: No interruptions, please.

Senator Dan Boyle: The fact is that people who have questioned this exercise are those, such as city and county managers, who——

Senator Dominic Hannigan: I question the benefit of it.

Senator Dan Boyle: ——until now have not had their decisions questioned by wider authorities. It is the function of a Minister for the Environment, Heritage and Local Government and his or her Department to ask these questions and put reviews in place. It is our function as Members of the Oireachtas to review these decisions. I am amazed that any Member would question this process.

Senator Fidelma Healy Eames: We should ask questions.

Senator Dominic Hannigan: I question what the Minister is going to do with the information.

An Cathaoirleach: The Senator had his opportunity to speak.

Senator Dominic Hannigan: It is merely a paper exercise.

Senator Fidelma Healy Eames: Why is the Minister appointing people from outside the country?

An Cathaoirleach: Senator Boyle is speaking. I want no further interruptions or I will have to suspend the proceedings.

Senator Dan Boyle: If people want to avoid a knee-jerk reaction to the Minister's announcement, I advise them to read the editorial in today's *Irish Examiner*, which clearly sets out the need for a review.

In regard to the article in the *Irish Independent* on the prospect of a property tax, a budget will be introduced in December and this will determine whether such a tax is introduced. I refer Senator Cummins to the report by the Commission on Taxation and Professor Honohan's report on the banking crisis, which noted that tax stability brought us to our current position in respect of public expenditure.

Senator Maurice Cummins: What about the McCarthy report?

Senator Dan Boyle: If proposals are instantly knocked down for the sake of opposition, we will never emerge from our public expenditure crisis. I advise those who intend to be in government in the near future to bear that in mind.

I agree with Senator O'Toole that the holding of regular opinion polls distorts political debate. I would like the right to say ludicrous things at any time.

Senator Ivana Bacik: He does.

Senator David Norris: He does not say, he tweets.

An Cathaoirleach: We are on the Order of Business and Senators should address questions to the Leader. We will not get involved in polls.

Senator Dan Boyle: The problem is that by having a debate on this issue, we will return to a previous debate on whether opinion polls should be held.

Senator Paudie Coffey: As a Member of the Oireachtas, I welcome scrutiny of local authorities and State agencies. In many of the debates we have held in the past I have noted that local authority executives, including county and city managers, should be subject to the same scrutiny as councillors. However, I have a problem with the cynical way in which the Green Party is using this announcement to make political capital. That party openly criticises local authority members in a cynical and unfair way. Local government reform is the proper vehicle for improving scrutiny and accountability of both executives and council members.

Senator Cummins correctly described the positive role that local authorities play in our community. The opening this week of the Waterford Crystal Experience in Waterford city is a good example of how public private partnerships can work. If local authorities have the vision and gumption to step out from their traditional role of service provider, they can get involved in areas that create jobs. Surely our efforts should be devoted to creating jobs and stimulating economic development in our cities and counties. I would like to see other authorities following the Waterford example, which led to the creation of 70 full-time and 30 temporary and part-time jobs. This is a positive development in the heart of Waterford, which has been neglected by the Government despite its designation in the national spatial strategy as a gateway city.

I ask the Leader to arrange a debate on housing. Thousands of people are on waiting lists, even though thousands of houses lie vacant, including local authority houses. We are told local authorities do not have the resources to renovate their houses. It is a scandal that apprentices and construction workers remain idle when schools, local authority houses and community halls need to be constructed or refurbished. Unlike Waterford City Council, the Government is not thinking outside the box to get these people off the dole queues. They have the skills required to renovate houses. I call for a debate on housing at the earliest opportunity in order that we can find new ways of employing construction workers who have been made redundant.

Senator Labhrás Ó Murchú: When we enter this House, we bring with us a variety of views, philosophies and experiences. The system allows us to express our views freely and, while they do not have to be accepted by other Members, it is important that we feel we have the right to express them. We must protect this system because otherwise the people who expect us to represent them will be denied their rights. Without warning during a recess yesterday, I was subjected to unruly verbal abuse and name calling because of a view I expressed in this House. My colleagues around me were shocked by what they heard. I do not take issue with the personal offence but the fact that inherent in it can be intimidation intended to prevent us from expressing our views on some subject in the future.

I do not like the idea of controlled or contrived debate on any issue because that is anti-democratic. We must be allowed to express our views, irrespective of whether they are accepted by others. Yesterday, without warning, I was shocked for my first time in this House. I hope it will never happen again and that nobody in this House will feel he or she must not put forward views for fear of being subjected to the same treatment. I do not say this for my own comfort but in defence of the democratic system. That is the only way any of us should feel involved, responsible and answerable in this House.

An Cathaoirleach: It is sad that any Member would be subjected to interference in expressing his or her opinions in this House.

Senators: Hear, hear.

An Cathaoirleach: I gather the incident took place somewhere in the precincts of the House rather in the Chamber.

I will take up the matter on behalf of the Senator, as such incidents should not occur.

Senator Jerry Buttimer: On a point of order, Members opposite have given out to me in the antechamber on many occasions and I have never done anything about it. We are mature politicians and grown men and women.

An Cathaoirleach: We will not discuss the issue.

Senator David Norris: While I would have liked to have spoken on the matter of employment creation yesterday, I was frustrated by the chaotic manner in which business was ordered. I understood the debate would take place much earlier than it did and it was not possible for me to speak later in the evening. For this reason, I missed an opportunity to speak about a case I encountered outside the gates where a young man from County Clare, Mr. Paul Connellan, was launching a new product. It is a biodegradable plastic bottle, which is highly significant and could have Europe-wide application. I regret I did not have an opportunity to salute the company and its Wellness brand.

I ask the Leader to arrange a debate on taxi regulation, as something chaotic is also taking place. Yesterday, owing to problems with my back, I had to travel a short distance by taxi. The vehicle, a Mercedes, was in perfect mechanical order and had a beautifully maintained interior.

11 o'clock However, the driver must sell it in a couple of months because taxi vehicles may not be ten years old or more. This rule makes a complete and utter nonsense of the national car test. If vehicles pass the NCT and are deemed by the State to be worthy and fully competent mechanically, why should they not be driven and used as public service vehicles? I do not understand this rule.

A further serious problem is that some taxi drivers — they are not Dubliners — have a serious difficulty in negotiating their way around the capital because they simply do not know

the basics of the street network. The knowledge requirement appears to be patchily applied. I, therefore, call for a debate on taxi regulation.

Senator Marc MacSharry: A debate on taxi regulation would be useful. Senator Norris has raised the anomaly of perfectly fine vehicles having to be struck off, as it were, for use as taxis. The national car test should address this issue, especially as it is permitted to grant limousine licences for vehicles that are much older than ten years. I concur with the Senator on that point.

In the light of certain matters raised in the media today in the context of a property tax, I ask for a full debate in the House on what measures Senators believe should be included in the budget in the context of the requirement to save €3 billion. It would be useful to have such a debate before the session concludes to enable Ministers and officials to reflect on the views of Senators and any innovative ideas they may propose on how to achieve the necessary savings. There can be no absolutes as to what can be included or excluded from the budgetary measures. I include in this the possibility of introducing a property tax. I was taken by the welcome words of Senators from Waterford on the role of their local authority in getting Waterford Glass up and running again. Would it not be wonderful if local authorities were properly resourced on a sustainable tax base, as Senator Boyle stated, such as that which was in place prior to 1997? This would enable them to mount their own capital programmes or provide grant schemes to assist companies to create employment. A debate on what measures Senators believe should be included in the forthcoming budget would allow the House to play a useful role on behalf of members of the public.

Senator Paul Coghlan: Like Senator O'Toole, I strongly welcome the external review initiated by the Minister for Finance of the structures, systems and processes of the Department of Finance, as well as its management or mismanagement. The current crisis has created the worst mess the country has ever experienced and done significant damage to the economy. I compliment the Minister on his decision in this regard.

On another matter raised by speakers, it is disturbing that complaints have been made of such a serious nature as to prompt the Minister for the Environment, Heritage and Local Government to initiate an examination of six local authorities. If there is substance to these complaints, the review should proceed. The country is too small to lack uniformity. Regrettably, however, there are differences in how local authorities handle matters such as zoning and the scale and height of developments. If I understood correctly, the review is to be completed within four weeks. I ask the Leader to arrange a debate on the matter once the review is concluded.

I welcome the comments of Senators Cummins and Coffey on Waterford Glass. It is wonderful that it is back in action, if only in a limited capacity. The Senators made valid points about local authorities and Senator Cummins made a good point about the lack of action on quangos on foot of the McCarthy report.

Will the Leader confirm that the Dublin mayoral Bill will be published this week and that it contains a key section to right the position on the town of Dingle?

Senator Ivor Callely: The Pension Board's annual report published yesterday raises a number of issues which are causing concern, particularly the combined deficit of in excess of €25 billion in defined benefit pension schemes. This deficit is causing serious anxiety and concern for a large proportion of the population. Given current demographic trends, I ask the Leader to arrange a broad ranging debate on what the future holds for the social welfare pension system and private and defined benefit pension schemes. In this regard, I repeat my old mantra of asking the Leader to ensure there is a structure to the debate and to have the appropriate briefing documents made available to Senators.

[Senator Ivor Callely.]

I appreciate the Leader's indication that he will arrange a debate on carers. Having asked a question some days ago about the date on which the debate will be held, I had hoped he would set a date. I ask him to do so now and use the debate as a model for future debates. By this I mean we should ask the Carers Association and other voluntary, charitable and community care providers, as well as representatives of the Health Service Executive and Department of Health and Children, to provide us with the briefing material required to have a meaningful debate.

Senator Ivana Bacik: I support Senator O'Toole's call for a debate on regular opinion polls and their potential to have a distorting effect on the political process. Senator Norris described them as the political equivalent of pole dancing. I found the antics of the Green Party akin to political lap dancing, given that it is a lap-dog of Fianna Fáil in government.

An Cathaoirleach: The Senator should put a question to the Leader.

Senator Niall Ó Brocháin: Are we lap-dogs or lap dancers?

Senator Ivana Bacik: I will leave that to the Senator to decide.

I ask for a debate on extending the protection of the domestic violence legislation to cover a broader range of victims of domestic violence. This morning, with other Senators, I attended the launch of the Women's Aid annual statistics for 2009. Some of the issues the organisation highlights are the increased incidence of the use of technology in abuse, including stalking and harassment by mobile phone, the Internet and so forth, and the serious issue of domestic abuse during pregnancy. When women are pregnant, they are more likely to be abused in some relationships. Women's Aid is doing important work and I welcome the debate the House had on domestic violence which was kindly facilitated by the Leader. We should advance the debate to discuss how we can better strengthen our legislation to ensure categories of victims not currently protected can achieve protection under our laws and adequate resourcing is provided for the Women's Aid helpline.

I support the request made by Senator Ó Murchú yesterday for a debate on a missing persons helpline. Senator Ó Murchú had been contacted by the same person who has been in contact with a number of us whose sister very sadly had gone missing many years before and who is selflessly campaigning for a national missing persons helpline. It is a matter of urgency. It is simply not good enough to say that we cannot afford it when it is being rolled out in other European countries. We need that debate in this House as a matter of urgency.

Senator Fiona O'Malley: I echo the sentiments of Senator Ó Murchú. In the context of the right to have and encourage full participation in debates on issues that are often seen as contentious, I seek a debate on education. At this time of the year people make choices about what schools their children will attend in September. In a cool environment we need to look at what kinds of schools we have, who are running them and whether there is a plurality of schools. We need to provide a system which is not exclusively catered for by one faith or another. The Tánaiste and Minister for Education and Skills should come to the House for a debate on the future of the education system. We are at a crossroads and the country is no longer a unified singular Catholic state. In the light of reports concluded in the past academic year even, we need to review who runs our schools and have a debate outside the context of anything else apart from trying to decide what kind of education system we would like for our children for the future. We need to invite the Tánaiste and Minister for Education and Skills for a debate on the future of education and in no other context.

Senator Eugene Regan: The different reports on banking and the economic crisis have clarified some issues as to how we got into this mess. I refer to the report by Professor Patrick Honohan on the failures of financial regulation and the report of Messrs. Klaus Regling and Max Watson on the failure of the banks and, in particular, the budgetary and fiscal policies pursued by successive Governments. I welcome the announcement by the Minister for Finance, Deputy Brian Lenihan, of an external review of the Department of Finance. The Regling and Watson report highlighted the failures of budgetary and fiscal policy, particularly in the area of property tax relief and breaks which fuelled the property bubble. They came to the conclusion that it was largely a home-made crisis, primarily the responsibility of the Taoiseach when Minister for Finance.

The problem is that there is no investigation of the Taoiseach because the Government has blocked any investigation post-29 September 2008. The Taoiseach should clear the air about the influences on him over decision making at the time. What advice did he follow? Whose advice did he take? It is important to have transparency on this issue. Was he influenced by Mr. Seán FitzPatrick? Was he influenced by the go-between, between Anglo Irish Bank and the Government, Mr. Fintan Drury who is a close personal friend of the Taoiseach and who was on the board of Anglo Irish Bank up to June 2008?

An Cathaoirleach: The Senator should not name people who are not here to defend themselves.

Senator Eugene Regan: It is important for the Taoiseach to make a statement on the matter.

An Cathaoirleach: The Senator has made the point.

Senator Eugene Regan: By whom was he influenced? What were his relationships at the time? We need to clear the air. We need to agree the terms of reference of the inquiry into the banking crisis and the economy.

An Cathaoirleach: The Senator is seeking that debate.

Senator John Hanafin: I would also welcome an external review of the Department of Finance and the processes of decision making. However, I am very cognisant of the context in which the decision was taken. In 2004 *The Economist* had an article with the housing bubble depicted as a balloon, which was right because three years later it burst. We were told internationally, by no less a person than Alan Greenspan of the US Treasury, that by the use of the interest rate mechanism it was possible to manage the external flow and management of credit. In addition the former British Prime Minister, Mr. Gordon Brown, MP, told us that we had reached the end of boom-bust economics. To imagine for some instant that the economic view of this nation was very different from any other model, with a few rare exceptions, is misguided and that will be proved. It was a process undertaken internationally. Undoubtedly, we were part of that process, but had it not been for the international downturn we would have managed that process well. However, the most important question to be answered is whether it can happen again. Do we need EU regulation to curb the financial practices that have created these difficulties? We certainly do. We need a debate on that issue in the House.

Senator Shane Ross: Like other Members of this House, it is welcome that the Minister for Finance is initiating an investigation into what happened in the Department of Finance in recent years. Further to what Senator Regan said, it is inconceivable that this could happen without the Taoiseach being a key witness and being investigated. Provided this is a genuine investigation into what happened — I believe it is — the important thing is that people are involved. I became a little suspicious when I read the supposed terms of reference and came

[Senator Shane Ross.]

across the words “structures” and “processes”. So many key people were involved in making key decisions that not only should the Taoiseach be subject to investigation and scrutiny and accountability, so also should the mandarins. A light needs to be shone on the activities of the individual officials in the Department. We do not know what happens in the most powerful Department in the State. We do not know who makes what decisions about what and what sorts of guys they are. While I do not want to persecute people or be vindictive, we should be able to see the people concerned in public answering questions on what happened to ensure it never happens again. These are very powerful people — they are more powerful than most Ministers. It is important that individuals are put under pressure, as well as having processes examined. I do not want to just see the report come out with a map of how the structures work and suggest moving a few things around and everything will be resolved. Accountability is important; mandarins should be answerable.

I would like to tackle the issue of opinion polls. I cannot for the life of me understand why we need a debate on opinion polls. I am staggered at why politicians always want to talk about opinion polls. Opinion polls are merely a flash of opinion at a time. They provide entertainment, which is not a sin by the way, and information. If members of a party from any side want to get their knickers in a twist about opinion polls and do what they want them to do, that is up to them. It is their rather immature reaction to an individual poll.

An Cathaoirleach: Time, please.

Senator Shane Ross: For us to say we should not allow them is paternalistic and censorship. Where does one go from there? We would be taking the attitude that we knew better and we knew the issues on which people should vote.

An Cathaoirleach: Time, please.

Senator Shane Ross: It is only one sentence.

An Cathaoirleach: Not a paragraph.

Senator Shane Ross: There is nothing wrong with people being influenced in their vote by opinion polls. If they want to get on a bandwagon, let them do so; it is up to them. I cannot understand what we are talking about.

Senator Niall Ó Brolcháin: I join Senator Coghlan in calling for a debate on planning. The Planning and Development Bill will come before us in the not too distant future. Senator Coghlan spoke about the Minister for the Environment, Heritage and Local Government carrying out a study of particular local authorities, including Galway County Council. I understand it is based on the empirical evidence of planning decisions approved by local authorities but refused by An Bord Pleanála. The councils selected have particularly high incidences of refusals by An Bord Pleanála after they had granted planning permission. The Minister is rightly looking at an independent expert review of these decisions. We need to get planning right and the Planning and Development Bill will help to move things in the right direction. While we have consistent talk about the banks, people seem to be very reluctant to talk about planning issues. Planning is as much a part of the difficulties as the banking crisis. If we do not get it right, we will face another problem in future. It is important that all parties in the House look carefully at the planning process, get to understand the difficulties in the issue and accept that there are such difficulties, particularly with regard to community facilities, schools and other matters.

I refute the argument made by Senator Bacik that Green Party Members are either lap-dogs or lap dancers. We are standing tall——

Senator Michael McCarthy: They are lapping it up.

Senator Niall Ó Brocháin: ——and not paying any attention to opinion polls.

Senator Michael McCarthy: They are lapping it up in the corridors of power.

Senator Maurice Cummins: They are not even poodles.

Senator Jerry Buttimer: How could one follow that poodle?

An Cathaoirleach: There should be questions to the Leader.

Senator Niall Ó Brocháin: Is Senator Buttimer the Rottweiler?

Senator Jerry Buttimer: Senator Coffey made a very relevant contribution on the Order of Business. We need not only a debate on housing but real action on the issue. Thousands of people are living in housing secured with rent allowance or in council housing and they are up to their eyes in debt. At the same time thousands of houses are idle because councils across the country do not have the money to refurbish them and the Government does not have a plan to bring about reform of the housing stock it has available. A debate on housing would be worthwhile and I would like to hear the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Finneran, detail a plan for action that would help the thousands of people in Cork city and county who are on the housing lists.

I ask that the debate on opinion polling be widened. I agree with Senator Ross that there is no harm in opinion polls. I am not in favour of censorship by any stretch of the imagination but there are some opinion formers in newspapers and it seems it is only their view that matters. With one Sunday newspaper, if members of Fine Gael walked down Grafton Street giving out €5 notes or baskets of fruit, they would be wrong. It is about time we stood up to this Sunday newspaper and took it on because it seems only its view matters. Others do not appear relevant.

Senator Paschal Mooney: Will the Senator name the newspaper?

Senator Jerry Buttimer: I would like to have a debate on journalism, public discourse and how columnists influence what is happening in the world.

Senator Paschal Mooney: The Senator could name the newspaper.

An Cathaoirleach: There should be no interruptions.

Senator Jerry Buttimer: Senator Hanafin is gone but I should clarify that Mr. Alan Greenspan was the chairman of the Federal Reserve, not the Treasury in the United States.

Senator Feargal Quinn: Some weeks ago I said we should have more good news in this House. The good news I have from yesterday comes from EUROSTAT and is published in *The Wall Street Journal*. It details how Ireland's purchasing power standard was the second highest in Europe last year. It experienced quite a drop and is at 131% of the average spending power in Europe, down from 148% two years ago. For what we earn, we can buy 31% more than the average in Europe, which is good news that we should recognise. In spite of problems and challenges, we have got some good news and we should ensure to draw attention to it on occasion.

[Senator Feargal Quinn.]

Another interesting piece of good news comes from the other side of the world. New Zealand is now considering the reinstatement of the Senate. It was abolished in 1950 but a report on its reinstatement has been published. It states:

One of New Zealand's constitutional problems is that it is too easy to pass laws quickly and without proper scrutiny. The senate would provide a publicly visible role for senators to review legislation and those deciding to block or support certain laws would be politically compelled to explain their decision to the public.

It is time we drew attention to this as some are questioning the need for the Seanad. New Zealand abolished its Senate in the past and is one of the few countries which had the Westminster form of Government to do so. It is now reconsidering the issue.

Senator Regan made a point on the commission of investigation. If we are to have such an investigation into the banking crisis, we should ensure we learn from it rather than look back and cast blame. We must understand what went wrong to ensure we do not face such problems again.

Senator Mary M. White: Hear, hear.

Senator Nicky McFadden: I express my disappointment at the events outlined by Senator Ó Murchú and empathise with him. I am disappointed that he was offended by Members of this House. We should treat each other with dignity and respect, and I would expect that from each and every Member of this House. I am disappointed to hear he was treated in such a way.

I concur with the comments of Senators Coffey and Cummins on county councils taking an active role. I commend Westmeath County Council, the county manager, Mr. Danny McLoughlin, and all councillors for the wonderful tendering job they are doing for a world trade commercial centre for the Athlone area. It is an amazing facility on the outskirts of the town covering hundreds of acres an hour and a half from Dublin and 40 minutes from Galway. There is a rail network and many other facilities. We are actively tendering to China for 10,000 jobs over a period.

I request an urgent debate on carers. Some 161,000 people are caring for their elderly or infirm relatives in their homes at a time when home care packages and the numbers of respite hours are being cut, with too few public health nurses to do the job. We need a serious debate on how to support carers, the unsung heroes here. A commitment was given in this House more than nine weeks ago to have a debate on carers and considering there are so many people suffering from Alzheimer's disease and other illnesses, with elderly relatives trying to care for such people in their own homes, there is an urgent need for the debate.

Senator Mark Daly: I ask the Leader to bring the Minister for Finance to the House to discuss proposals which have appeared in the media and the report of an bord snip nua last year on the reintroduction of a property tax. There is currently a €200 charge on second homes, which is equitable and fair because if people have a second home, they should be able to afford the €200 to help infrastructure in the counties where holiday homes or investment properties abound.

The introduction of a property tax is a serious issue if we consider that people who bought a house in the past ten years, between paying for the services of solicitors and accountants, VAT paid on materials and PRSI for workers, have paid 50% in tax to the Government up front for the price of the house.

Senator Paul Coghlan: The Senator could take it up at the parliamentary party level.

Senator Mark Daly: To impose a property tax on people in negative equity seems to be highly unjust. I ask for the Minister for Finance to come to the House to outline his position on this issue because such an imposition in the budget would be a serious burden on people who already have mortgages. Half of what they pay in mortgages goes to a payment they have given to the Government up front.

Senator Fidelma Healy Eames: The family home is certainly under attack today. Members will remember the floods of last winter and although the floods may have receded, the misery is not yet over for Galway families. Many of the home owners looking to return to the homes they left because of flooding cannot get home insurance. Government Deputies in Galway, with the former Progressive Democrat Deputy, promised that the Taoiseach would intervene with insurance companies to help home owners get home insurance but that has not happened. I ask the Leader to talk to the Taoiseach about the matter and come back to me directly. It would give much solace to Galway families at this time.

I cannot understand how the Government can possibly countenance a property tax at this time when families are hurting so much. Some 350,000 homes are now in negative equity and 30,000 home owners are facing repossession. How can we afford a property tax? The time to introduce such a tax was during the property boom, when it might have taken some of the heat out of the market. I call for a debate on the matter.

Will the Leader indicate what is the impetus behind the planning review instigated by the Minister for the Environment, Heritage and Local Government, Deputy Gormley? Is he in a position to indicate whom the Minister does not trust? It appears the Minister does not trust planners who are charged with implementing guidelines the Minister lays down. Is it the case that planners are not implementing such guidelines? Senator Ó Brolcháin made a comment in respect of Galway County Council which was not true. I am a former member of that council and dealt with its planners frequently. The individuals concerned state 30% of planning permission refusals they issue on behalf of the council are overturned by An Bord Pleanála, which is the exact opposite to what Senator Ó Brolcháin said. Will the Minister indicate in whom he does not have faith? On this occasion, it appears to be the planners. The Minister appears to be favouring An Taisce. If we allowed that organisation to run wild in County Galway, people would not have any homes. Why is the review being carried out by consultants from outside Ireland? Does the Minister not trust anyone in this country? He is trying to make political capital out of this issue.

Senator John Ellis: The Planning and Development (Amendment) Bill is due to be returned to the House for debate in the near future. I understand the version of the Bill that will be returned will be radically different from that which was originally passed by the Seanad. Prior to its being returned to the House, would it be possible to obtain clarification from the Minister for the Environment, Heritage and Local Government and the Environmental Protection Agency, EPA, of the prescribed limits relating to discharges from sewage treatment units? I am reliably informed that the EPA is not in a position to provide a definitive indication regarding acceptable discharge levels from sewage treatment units, which is ridiculous. The units to which I refer are installed in order that the sewage from one-off housing developments can be treated. It is not acceptable, therefore, that the EPA cannot indicate what should be the discharge rate or what level of bacteria is acceptable. Many of these units discharge what is known as “grey” water which is suitable for gardening or non-domestic purposes. Despite this, the EPA will not provide a definitive indication of what should be the acceptable level of discharge. Will the Leader request the Minister to ask the EPA to provide such a definitive indication?

Senator Michael McCarthy: Last November devastation was visited upon thousands of families and businesses as a result of the flooding to which Senator Healy Eames referred. Many places, including Bandon and Ballinasloe, were badly affected. In these areas, particularly those in west Cork, local authorities are making all possible efforts to put in place structures that would assist in alleviating the position in the event of future flooding.

Senator Fidelma Healy Eames: Well done to them.

Senator Michael McCarthy: Cork County Council has undertaken to clean the bed of the River Bandon. At the beginning of the week the South-Western Regional Fisheries Board issued a letter preventing that work from proceeding. We are faced with a situation where one organ of the State is doing its best to try to ensure that in the future flooding will not inflict the same damage on businesses and homes as that which we witnessed last November, while another is, in effect, preventing this from happening. If one organ of the State is fighting for communities and attempting to ensure the misery experienced and damage caused will be kept to a minimum in the future, surely another should not be working against that agenda.

As stated on previous occasions, three or four Ministers and Ministers of State have responsibility for different aspects of marine affairs. That is not good enough. I request that the Minister with responsibility for the fisheries boards who, I believe, is the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, come before the House to discuss this appalling situation.

Senator Ned O'Sullivan: I wish to refer to two recent reports on the horse racing industry. The first is the annual report of Horse Racing Ireland, HRI, which is a pleasure to read and highlights the contribution horse racing is making to the economy. It also underlines the wonderful image horse racing presents and the fact that it is a major tourist attraction. It also highlights how Irish horses and thoroughbreds have been sweeping the boards in the various classic races in recent years, a matter on which I will not go into great detail. There is, however, a downside which is presented in the second report to which I refer and which was the subject of an article by Sean McConnell in *The Irish Times* last week. The report highlights animal abuse, particularly of horses which have finished their racing careers. In the light of the downturn in the economy, many owners and syndicates can no longer afford to keep horses in training. There is anecdotal evidence that horses are being removed from training stables, that they are malnourished and not properly cared for and are either wandering the roads or being left to starve in fields. This is shameful. Horses have always been central to the racing industry. However, the contents of the report to which I refer appear to contradict the image of Ireland as a country in which horses are loved. We must take action in this matter because Ireland is a country in which horses are loved. I ask the Leader to raise the matter with the Minister for Agriculture, Fisheries and Food in order to ensure horses whose services are no longer required will be either disposed of humanely or treated in a proper fashion.

Senator Donie Cassidy: Senators Cummins, O'Toole, Hannigan, Coffey, Coghlan and Buttimer congratulated everyone associated with the reopening of Waterford Crystal yesterday and the creation at its factory of 70 full-time and 30 part-time jobs. As Senator Cummins stated, the local authority and, in particular, its manager deserve credit for the initiative they showed in the matter. As everyone is aware, Waterford Crystal is a global brand name and it is vital that it be protected. I fully support the views expressed by Senator Cummins.

Senator Cummins also made a proposal to the effect that various agencies should come within the remit of local authorities. This proposal is certainly worthy of consideration by the Minister. Reference was also made to the future funding of local government. The House will

be engaging in a debate on this matter which will present a major challenge to the Government, local authorities and public representatives, be they local authority members, Senators or Deputies. Everyone is aware that retail business interests are under serious pressure. High water rates, particularly for those businesses which are obliged to use large volumes of water, are becoming an issue of major concern. Some years ago insurance payments represented the second largest cost — after wages — on the balance sheets of businesses. Rates are now the second largest. As stated previously, the House should engage in an all-day debate on the funding of local authorities. I would like Members to be prepared to contribute to such a debate, for which I will make time available at the first available opportunity.

Senators O'Toole, Regan, Hanafin and Ross welcomed the announcement by the Minister for Finance, Deputy Brian Lenihan, in respect of the paper trail in the Department of Finance and the external review of its activities. As Senator Ross indicated, this is one of the most powerful Departments and it is crucial that individuals be held answerable for various aspects of its work. I fully support the Senator's views in this regard. The House will continue to debate and receive updates on the activities of the Department on a monthly basis.

Senators O'Toole, Ross and Buttimer referred to the importance of polls. Everyone knows that the only poll that really matters is that which takes place on the day of an election. However, Senator Buttimer raised a valid point about standards in journalism. Following the summer recess, the House will engage in a debate on various aspects of this matter and will be informed of how the work of the Press Council of Ireland is progressing.

Senator Hannigan congratulated the Minister for Health and Children for previously allocating €11.6 million for the new extension at Our Lady of Lourdes Hospital, County Louth. I am sure the Minister for Justice and Law Reform, Deputy Dermot Ahern, and Senator Carroll will take pride in this extension, the completion of which means that the hospital's accident and emergency unit will be able to accommodate up to three times as many patients in the future. This is a good news story and we join the people of north Leinster in celebrating this development which has been completed at a cost of €11.6 million in difficult economic times.

Senators Hannigan, Boyle, Coghlan, Ó Brolcháin, Healy Eames and Ellis referred to the independent review of planning issues commissioned by the Minister for the Environment, Heritage and Local Government, Deputy Gormley. The House has engaged in many debates on the challenges facing the planning system, particularly in the context of one-off housing and in view of the fact that it is important that the areas in which we were born and reared do not become a wilderness. I hope common sense will prevail and that sons and daughters will be in a position to build houses adjacent to those owned by their mothers and fathers in order that they might assist them as they grow older. In that context, the importance of carers, etc., has been highlighted on many occasions. The best care one could ever receive is that provided by a son or daughter living next door. Grandchildren often care for their grandparents during the day until their parents return home from work. We were all raised in an Ireland in which people cared for each other and were part of their communities.

Senator Fidelma Healy Eames: The Leader should tell the Minister for the Environment, Heritage and Local Government, Deputy Gormley, about the Ireland to which he refers.

Senator Donie Cassidy: I hope common sense will prevail in this matter.

Senator Paul Coghlan: That is a separate matter.

Senator Donie Cassidy: I will ensure Members will have an opportunity in the House to make all their points on that review. Senator Ellis, a long-standing and experienced Member of the House, spoke about the EPA and the definitive indications that should be available in

[Senator Donie Cassidy.]

this day and age. I will follow up this issue with the Minister and communicate with the Senator on the serious concerns raised by him in the House this morning.

Senators Coffey and Buttimer called for a debate on housing and the various challenges facing that sector, including funding for various projects. I will have no difficulty in providing time for a debate on this issue.

Senator Ó Murchú raised the issue of freedom of speech, for which our forefathers fought so hard many years ago. I support the Senator views as outlined. As long as I have been a Member of this House, there has been no finer contributor or orator than the Senator.

Senators: Hear, hear.

Senator Donie Cassidy: We should fully support and congratulate Senator Ó Murchú on all he has done as a Senator for this House. He is a shining example of all that is good in public life.

Senators Norris and MacSharry called for an update on taxi regulation, in particular NCT tested vehicles over ten years old which are no longer acceptable as taxis. Again, common sense must prevail given the downturn in the economy. The people trying to make a living driving taxis should be supported by all sides of both Houses of the Oireachtas at this difficult time. I will do all that I can to assist the view that a vehicle used as a taxi which is NCT tested and in perfect running be allowed to continue operating. There is not much money to be made in the taxi business any longer. Those of us who drive in by Heuston Station every morning will be aware of the queues of taxi drivers, men and women, waiting there for a fare. Often a taxi driver will get only one fare in a four hour period. We must support taxi drivers who are providing 24/7 a tremendous, dedicated service for their customers, constituents which we represent. It is our duty to support them.

Senators MacSharry, Daly and Healy-Eames called for a debate on matters pertaining to the budget. The budget is six months away. We must wait to see what incomes will accrue to the Exchequer. We can debate the figures released from time to time in monthly or quarterly reports. However, conclusion of the Croke Park agreement will enable urgently needed savings for the Exchequer to be achieved. I will accede to requests from colleagues for a debate on the budget but it is still six months away. The matter will be discussed next week by the leaders of the groups.

Senator Callely called for a debate on the Pensions Board report. I have no difficulty in such a debate taking place. However, I do not believe it will be possible to have one prior to the summer recess as a large volume of legislation is expected to come before us and this must take precedence. I can give a commitment that the Pensions Board report will be debated at a future date.

Senators Callely and McFadden raised the issue of carers. I outlined earlier our total commitment to carers. The Minister for Health and Children, Deputy Harney, will be in the House in the next two weeks to conclude and respond to colleague's queries in regard to the health portfolio. I suggest colleagues avail of that opportunity to make their points on carers.

Senator Bacik called for a debate on domestic violence, in particular the technology assisted crimes taking place. This will take place following the summer recess. The Senator, with Senator O'Malley, also called for a debate on missing persons. As I indicated yesterday to Senator Ó Murchú on the Order of Business, I fully support the House having a debate on the issue.

Senator O'Malley also asked that the Minister for Education and Skills be invited to the House to debate what type of education system Ireland requires and needs for future gener-

ations. This is a timely call for that debate and I have no difficulty in it taking place following the summer recess. The Minister for Education and Skills was in the House only three weeks ago and gave a full account of her portfolio. I support Senator O'Malley's request for a debate and will provide time for an all-day debate on education on the issue.

Senator Regan expressed his strong views on the banking reports and welcomed the review announced by the Minister for Finance, Deputy Brian Lenihan. He also made statements with which I do not agree. Professor Honohan has made clear that there was no political interference in this area. There is much comment stemming from the banking sector reports, some of which suggest not everyone has read all of the reports. Any fair minded person would agree that Professor Honohan has been exemplary in terms of his views. We all acknowledge the great work being done to correct and tighten up bank structures here and across the world. I agree with the suggestions made by Senator Hanafin in regard to the need for further regulation in this area.

Senator Quinn informed the House that, according to EUROSTAT, Ireland's GDP was the second highest last year. There have been many reports in regard to the corrective decisions taken by Ireland and how they are affecting our performance on a worldwide basis.

Senator Quinn also spoke of the reinstatement of the Senate in New Zealand. There must be a watchdog of principal parliament. We are privileged to be the watchdog of Dáil Éireann. Every Bill that comes before this House is scrutinised section by section and line by line. I confirm to the electorate and anyone interested in the positive work being done in Seanad Éireann that the debate on no Bill is guillotined in this House. That is the difference between Dáil Éireann and Seanad Éireann. This House provides value for the taxpayer in terms of the meaningful work it does.

Senator McFadden spoke of the possibility, through the involvement of China, of a world trade centre in Athlone. She also congratulated our county manager, Mr. Dan McLoughlin, one of the best managers in the country. I look forward to this development taking place. It will change the entire landscape of the midlands, whether one comes from Westmeath, Longford, Offaly or Roscommon. With representatives of the institute, including Professor Ó Catháin, I visited China as part of a trade mission. This development is bearing fruit thanks to the hard work and endeavour of everyone in Westmeath County Council during the past three to four years.

Senator Healy-Eames raised the unavailability of home insurance for people whose dwellings are located areas prone to flooding. This is a serious concern. I will pass on the Senator's views to the Minister. Senator McCarthy also spoke about flooding issues in his area and stated that one State agency was preventing another from carrying out corrective measures to ensure there was no further flooding. It behoves all of us, given our experiences in terms of the flooding last year, much of which was man made, to do all we can to ensure this does not happen again.

Senator O'Sullivan called for a debate on the report on the horse racing industry. I support the Senator who has been a great supporter of the industry and ambassador for the country.

Senator Paul Coghlan: Hear, hear.

Senator Donie Cassidy: I am seriously concerned when Senator O'Sullivan brings to the attention of the House the abuse of starving animals. From time to time, we pass fields in which we see badly treated animals. We have a duty and responsibility to report such cases to the various agencies responsible. I thank the Senator for bringing the matter to the attention of the House. I will allocate time to allow the report to be debated in the House.

Senator Paul Coghlan: What about my query on righting the position on the town of Dingle?

Order of Business agreed to.

Criminal Justice (Psychoactive Substances) Bill 2010: Order for Second Stage

Bill entitled an Act to prevent the misuse of dangerous or otherwise harmful psychoactive substances; to provide for offences relating to the sale, importation, exportation or advertisement of those substances; to provide for offences relating to the sale and advertisement of certain objects for use in the cultivation of certain plants, fungi, natural organisms or substances in contravention of the Misuse of Drugs Act 1977; to provide for powers of the Garda Síochána in relation to the investigation of those offences; to make provision in relation to the issuing of prohibition notices by certain members of the Garda Síochána to certain persons in relation to activities that are prohibited; to provide for the making by the District Court of prohibition orders and closure orders in certain circumstances; to amend the Customs and Excise (Miscellaneous Provisions) Act 1988; and to provide for related matters.

Senator Donie Cassidy: I move: “That Second Stage be taken today.”

Question put and agreed to.

Criminal Justice (Psychoactive Substances) Bill 2010: Second Stage

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

Minister for Justice and Law Reform (Deputy Dermot Ahern): I am pleased to initiate the Criminal Justice (Psychoactive Substances) Bill 2010 in the Upper House, to which I express my appreciation for agreeing to deal with the Bill at short notice. This is a robust, innovative and urgent Bill, in which I am providing that it will be an offence to sell, import or export unregulated psychoactive substances for human consumption. In addition and very importantly, I am providing powers for the Garda Síochána and the courts to issue prohibition and closure orders in respect of persons or premises where the sale of such products continues, despite notice to cease.

In the last year we have seen the emergence of a new problem in our society with the proliferation of retail outlets known as head shops which have appeared on the main streets and in the suburbs of our cities and even in villages and towns. These outlets are engaged in the sale of a range of unregulated psychoactive substances. This trade operates behind a veil of technical legality, with products marketed as legal highs. This approach gives the impression that they are safe to use, thus enticing people, including teenagers and young adults who would not ordinarily take illegal drugs, to purchase them. Of course, they also attract the drug using population which consumes these products as alternatives, or in addition, to controlled drugs such as cannabis, cocaine and heroin. The products are sold with no information on content, no directions for use and no standards of control of quality or safety are applied. On the contrary, there is a deliberate attempt at circumventing the legal framework for the control of medicinal products by labelling them as bath salts or plant food.

There are serious medical concerns that these unregulated products may be as harmful as illegal drugs such as cocaine and ecstasy. Only this week a coroner in Kildare warned of the dangers of head shop products following the tragic death of a 19 year old woman who had taken two head shop products — mephedrone and butylone — together with prescribed drugs, alcohol and heroin. The two products in question have since been controlled under the Misuse of Drugs Acts by the Minister for Health and Children.

I have a further serious concern. It is that head shops are also acting as an unprecedented gateway to illicit drug abuse and criminality, especially for our young people. The House will not be surprised to hear, therefore, that I put little store in the argument that it is somehow wrong to criminalise the sale of these products because in doing so we will increase the market potential for drug traffickers. These products can be equal to controlled drugs in the threat they present to public health and safety. Those who trade in them should not be allowed to escape the application of the law, nor should they be allowed to avail of a veneer of respectability. It is a dangerous trade which operates without regard to the consequences for its customers or society in terms of health and safety, addiction and criminality.

The Bill is part of the Government's multi-pronged approach targeting the activities of head shops. The primary vehicles for regulating psychoactive substances are the Misuse of Drugs Acts 1977 to 2007. On foot of the Government order of 11 May, the Minister for Health and Children made the necessary statutory instruments to make the possession and sale of certain substances subject to criminal sanctions under the Acts. These regulations covered the mainstream of substances then commonly being sold in head shops, including synthetic cannabinoids — SPICE products, benzylpiperazine, BZP, derivatives, mephedrone, methylene and related cathinones, GBL and 1,4 BD. I am advised that following the making of these orders, many of the 102 head shops then open closed but about 36 reopened shortly afterwards, reportedly selling different substances. In the last couple of weeks the tally of shops reopening has risen and I understand the records of the Garda national drugs unit indicate that 48 head shops were trading nationwide on 10 June. Such a trend does not surprise me, but I do not intend to allow it to continue.

Experience shows that new psychoactive substances can quickly emerge. There is a big international market for these products and skilled chemists in places as far away as China are ready and eager to use their expertise to create new products in response to the lure of large profits associated with this market. We have seen how quickly products such as Whack and Amplified have come onto the Irish market following the banning of mephedrone and other such substances by the Minister for Health and Children. The National Poisons Information Centre has received reports on patients presenting to hospital emergency departments with symptoms of extreme agitation and anxiety having consumed this product. The Minister for Health and Children is monitoring the sale of such products with a view to listing them as controlled drugs, if that proves necessary. However, it is clear that there will always be a time lag before such new substances can be made subject to control under the Misuse of Drugs Acts.

The speedy emergence of such substances indicates the need for a more general criminal law catch-all approach to the sale of dangerous psychoactive substances. It is my strong belief such an approach, as contained in the Bill, is necessary to criminalise the sale of psychoactive substances as they emerge. In this way I am acting quickly to prevent the sale of unsafe products, especially to young people. I am stepping in now to stymie any regrowth potential in the head shop industry. The focus of the Bill is on seeking to ensure the sale or supply of substances which have not been specifically proscribed under the Misuse of Drugs Act, but which have psychoactive effects, for human consumption will be a criminal offence. The offence can be prosecuted as an arrestable offence, attracting a penalty of up to five years imprisonment. This puts the offence in the serious category and as such, it will be automatically subject to various powers such as the power of arrest. It is also my intention to ensure such offences under the Bill will be treated as serious offences for which bail can be refused. Accordingly, I will bring forward an amendment to the Bill to add these offences to the Schedule to the Bail Act 1997.

Some criticism has been voiced that the Bill will not work because it does not incorporate a structure to bring together expertise to identify psychoactive substances. This criticism misses two important points. First, under existing arrangements, when considering whether substances

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should be controlled under the Misuse of Drugs Act, the Minister for Health and Children already has access to expertise on drug misuse and harm. Controlling substances under the Misuse of Drugs Act is an ongoing process which involves national and international co-operation and engagement. Substances are scheduled under the Act in accordance with Ireland's obligations under international conventions and European Council decisions or where there is evidence that they are causing significant harm to public health in Ireland. At national level, the Department of Health and Children works closely with my Department, the office of the Minister of State with responsibility for drugs, the national advisory committee on drugs, the Garda, the Customs service, the Forensic Science Laboratory, the Irish Medicines Board, the Health Research Board and others to monitor emerging trends in the development of new psychoactive substances. At international level, the Department engages with the European Monitoring Centre for Drugs and Drug Addiction and the United Nations Office of Drug Control on international trends in the emergence of new substances and drug control.

I will not, particularly given the state of the public finances, contemplate the duplication of the extensive controls operated under the Misuse of Drugs Acts. The Bill recognises that while the specific identification and control of substances are invaluable as a long-term approach, no matter what expertise is available, it will not deal sufficiently on its own with the creative capacity of the head shop industry to seek to circumvent the law on controlled drugs by constantly developing new products. It is for this reason that I am proposing in the Bill a catch-all approach to ensure the criminal law can deal with those who seek to undermine the controls operated by the Minister for Health and Children on the sale of dangerous psychoactive substances.

In the Bill I am also providing an immediate legal weapon for the Garda and the courts. I am providing that gardaí can apply to the courts for a prohibition order prohibiting any person from selling a psychoactive substance for human consumption where the person refuses to obey a Garda prohibition notice to cease such trade. The procedure in question, unlike a criminal prosecution, is a civil procedure. It is similar to procedures in other legislation such as the Food Safety Authority of Ireland Act 1998 which provide for immediate action in circumstances where public health or safety may be at risk. Accordingly, the onus of proof is on the balance of probabilities which is less onerous than that applying to the prosecution of criminal offences. Breach of the order will be a criminal offence. In addition, I am providing that the court can order the closure of a premises where an order has been breached, in addition to any other penalty that the court may impose.

Under the terms of the Bill, those who sell unregulated potentially dangerous substances for their psychoactive effect will also risk criminal investigation and prosecution. The prosecution may take time to gather the necessary criminal evidence but head shop traders should be under no illusion. Those who thought they were safe to peddle newly-marketed substances may also find themselves in due course defending their position before the criminal courts. The legislation is designed in such a way that it can have no impact on legitimate trade and will not apply to products which can be legally sold for human consumption such as medicines and food.

The Bill is intended to operate in conjunction with a number of other avenues which are being pursued, including regulations under the Misuse of Drugs Acts. A number of such measures are already in train. The activities of head shops are being closely monitored on an ongoing basis by the Garda Síochána and Revenue's Customs service with a view to ensuring no substances which are currently illegal are being sold. The HSE, in association with partner agencies under the drugs strategy, is finalising a national drugs awareness campaign that will focus on the dangers of psychoactive substances available through head shops. The National Advisory Committee on Drugs has been asked to carry out some targeted research in this area.

In addition, as part of the multi-pronged approach relevant Government agencies are reviewing existing legislative provisions to establish whether head shops are liable for prosecution under a range of legislation.

The general scheme of the Bill was notified to the European Commission under the technical standards directives. The notification invoked the emergency procedure, which means the usual three-month stand-still period would not apply. I am pleased to say the Commission has accepted the need for urgent legislation on this matter and indicated in the letter it sent confirming the legislation was ruled correct to proceed under the directive that it was to introduce European-wide legislation in this area. In effect, our legislation is ahead of what even the European Commission is doing on a European wide basis.

I turn now to the main provisions of the Bill. Section 1 defines terms used in the Bill. Section 2 excludes from the scope of the Bill products which are subject to licence, authorisation or other control. These exemptions include medicinal products, animal remedies, intoxicating liquor, tobacco and food. Controlled drugs, which are subject to the Misuse of Drugs Acts, are also excluded to avoid duplication. The section also provides that the Minister can, by order, exclude other products. This provision has been included in the unlikely event that a legitimate substance inadvertently comes within the scope of the legislation.

Section 3 provides for the offences of selling, importing and exporting psychoactive substances for human consumption. Subsection (1) provides for the offence of selling a psychoactive substance knowing or being reckless as to whether it is being acquired or supplied for human consumption. The definition of selling is broad and, by means of section 1, includes supplying, distributing, offering for sale and being in possession for sale. It includes sale over the Internet or home delivery services within this jurisdiction. Subsection (2) provides that it will be an offence to import or export a psychoactive substance for human consumption.

Subsection (3) provides for a rebuttable presumption that the accused knew or was reckless as to whether the substance was being supplied or acquired for human consumption where, notwithstanding any indication given on packaging etc. that a substance is not for human consumption, the court is satisfied, having regard to indications that the substance may have psychoactive effects, the presence of drugs paraphernalia at the place to which the application relates and whether there is a reasonable alternative lawful purpose for the substance, taking into account its cost and quantity, that it is reasonable to assume the accused had such knowledge or was so reckless. Subsection (4) provides that the court may be satisfied of the matters referred to in subsection (3), notwithstanding any oral or written statement or indication given on packaging etc. that the substance in question is not psychoactive or intended or fit for human consumption.

Subsection (5) provides that it is a defence for a person accused of an offence under this section to prove that he or she is a person referred to in section 6(2), which ensures the lawful professional activities of doctors, pharmacists etc. will be outside the scope of the offence provisions.

Section 4 creates the offence of selling an object knowing it will be used to cultivate by hydroponic means any plant, fungus etc. in contravention of section 17 of the Misuse of Drugs Act 1977. Hydroponic cultivation is the cultivation of plants in liquid containing nutrients, without soil, and under controlled conditions of light, temperature and humidity. This method of cultivation is known to be used for the purpose of growing cannabis indoors and is also known to be one of the products commonly sold in head shops. However, I am aware that this type of equipment can be sold by garden centres for legitimate purposes. For this reason, I am providing that it is only an offence to sell such products when the person knows that the product may be used for the cultivation of substances in contravention of the Misuse of Drugs Act.

[Deputy Dermot Ahern.]

In the general scheme of the Bill, I am providing for the offence of selling any pipe or other object made or adapted for use in connection with the consumption of a controlled drug or psychoactive substance. However, in view of the urgency of the Bill, I have decided not to proceed with this provision as there are difficulties to be overcome in dealing with the fact that such objects can have legitimate uses.

Section 5 provides for the offence of advertising a psychoactive substance or object to which section 4 applies. Subsection (1) provides that it will be an offence for a person to publish or display any advertisement knowing or being reckless as to whether the advertisement indicates an intention to sell, import or export a psychoactive substance for human consumption or to sell any object for use in cultivating by hydroponic means any plant etc. in contravention of section 17 of the Act of 1977. It will also be an offence to publish an advertisement promoting the consumption of a substance for its psychoactive effect and providing information on how or where a psychoactive substance may be obtained, or to publish an advertisement providing information on how an object may be used to cultivate by hydroponic means any plant etc. in contravention of section 17 of the Act of 1977. Subsection (2) provides that it is a defence for a person accused of an offence under this section to prove that he or she is a person referred in section 6(2), which ensures the lawful professional activities of doctors, pharmacists etc. will be outside the scope of the offence provisions.

Section 6 provides that certain categories of persons, such as doctors, dentists etc. who sell or advertise psychoactive substances will not commit an offence if their actions are lawful for the purpose of their profession.

Section 7 provides that a Garda superintendent, or higher, may serve a prohibition notice on a person where he or she believes the person is unlawfully selling psychoactive substances for human consumption, unlawfully selling hydroponic equipment or advertising psychoactive substances. A prohibition notice will specify the activities in respect of which the Garda opinion is held and the reasons for it, will direct the person to cease forthwith the activities specified in the notice and set out the possible consequences of failure to comply with the direction specified in the notice.

Section 8 provides that where a Garda superintendent, or higher, is of the opinion that a person is not in compliance with a direction contained in a prohibition notice, he or she may apply to the District Court, on notice to the person concerned, for an order prohibiting the person from engaging in specified activities. The court may make a prohibition order if, having considered the evidence before it and all the circumstances of the case, it is satisfied the person against whom the order is sought has engaged in the activity specified in the prohibition notice and it is necessary to prevent the person from continuing to engage in such activity. The circumstances which the court may take into account include indications that the substance may have psychoactive effects, the presence of drugs paraphernalia at the place to which the application relates and whether there is a reasonable alternative lawful purpose for the substance or object, taking into account its cost and quantity. The court may decide not to make a prohibition order where it considers that making the order would be unjust in all the circumstances of the case. This is a civil rather than criminal procedure so the proof required will be on the balance of probabilities rather than beyond all reasonable doubt. A person who fails to comply with a prohibition order will be guilty of an offence. A person who is the subject of a prohibition order may appeal the order to the Circuit Court.

Section 9 makes provision for the variation of prohibition orders by the District Court. Section 10 provides that where a person is convicted of an offence under section 3, 4, 5 or 8(6),

the court may make a closure order where the activities are being carried out at specified place. A person who fails to comply with a closure order will be guilty of an offence.

Section 11 provides that the District Court may vary or discharge a closure order on application by the occupier or owner of the place concerned or a Garda superintendent and sets out the procedure for such applications. Sections 12, 13 and 16 provide for Garda powers to search suspects and search and seize in regard to places, vehicles, and so on. Section 14 extends these powers to officers of Customs and Excise in cases of unlawful importation or exportation of psychoactive substances. Section 15 provides for an offence of obstructing a Garda or Customs officer in the exercise of his or her functions under the Bill.

Section 17 makes provision for the designation of laboratories for the examination of substances for the purposes of the Bill. The Forensic Science Laboratory is specifically designated as such a laboratory.

Section 18 contains provisions relating to evidence in proceedings under the Bill. Section 19 provides for the disposal of things seized for use in evidence in criminal proceedings under the Bill.

Section 20 provides that a person guilty of an offence under the Bill is liable on summary conviction to a fine of €5,000 or imprisonment for up to 12 months or both or on conviction on indictment to a fine or to imprisonment not exceeding five years or both. It also includes standard provisions relating to offences by bodies corporate and forfeiture of substances on conviction for an offence under the Bill.

Section 21 is a technical jurisdiction clause. Section 22 is a standard provision relating to expenses incurred in the administration of the Bill. Section 23 extends the powers of search and seizure of Customs officers at ports and points of entry to the State in relation to controlled drugs under section 2 of the Customs and Excise (Miscellaneous Provisions) Act 1988 to psychoactive substances.

Section 24 is a standard provision relating to making regulations and laying orders made by the Minister before each House of the Oireachtas. Section 25 provides for the Short Title of the Bill.

The House will appreciate that this is an important Bill which has community safety at its heart. It gives a strong message to those who seek to put that safety at risk and who seek to undermine the legal framework of this country in regard to controlled drugs. The clear and unequivocal message of the Bill is that such actions will not be tolerated.

I appreciate the level of support expressed for the Bill. I again thank the House for its co-operation in allowing me to bring it forward as a matter of urgency and I look forward to the debate on its provisions. I appreciate the forbearance of the House in bringing forward this legislation at relatively short notice. It is my intention, with the co-operation of the Opposition in both Houses, to have the Bill passed before the Oireachtas rises for the summer recess.

The Bill has two main provisions. One is the criminal offence of the sale, supply, distribution and so on of psychoactive substances. However, the more important provision is the one that I pushed in my discussions with the Attorney General and my officials, that of the use of the prohibition and closure orders in regard to these premises. This will be the avenue most used by the Garda Síochána in rooting out this evil in our society. It is designed specifically as a civil procedure so that the proof required will not be as stringent as that required in a criminal procedure; the proof required will be on the balance of probabilities rather than beyond reasonable doubt. This will give reasonable notice to the people involved to enable them to challenge the prohibition order or the closure order that may be made by the court.

[Deputy Dermot Ahern.]

I very much recommend that the Bill be passed through the House expeditiously in order that we can give the Garda Síochána these additional powers which, ultimately, will be added to the powers of environmental officers under the Misuse of Drugs Act which has been promoted by the Minister for Health and Children and which has had a dramatic effect on the head shop issue in recent times. It is necessary to have this overarching or catch-all legislation to take care of this issue. In this battle we are fighting a moving target in that new products are constantly coming on the agenda.

Senator Eugene Regan: I thank the Minister for the detailed presentation of this Bill. It is a case of the Legislature catching up with events on the ground. Psychoactive substances are currently controlled under the Misuse of Drugs Act and under the changes made to that Act in May of this year, but they have not been sufficient to deal with this problem. It is the malleability of these drugs and the ability to change and tweak the type of drug that is being sold which creates the problem for the Oireachtas in dealing with this matter. This was brought to our attention very tragically by the death of Colm Hodkinson in Dún Laoghaire. It highlighted the difficulty we have in the Misuse of Drugs Act. He had taken magic mushrooms, which had been banned in January 2006. It takes an event such as that to bring forward measures and evidence of the extraordinary effects, both physical and mental, these legal highs have had on individuals, particularly young people, throughout the country.

While it is essentially a matter for member states to deal with this problem, I welcome the fact that in regard to this legislation the European Commission has operated the acceleration or emergency procedure under the technical standards directive and given the go ahead for it. It is also to be welcomed, as the Minister indicated, that the European Union will take a more active role in identifying and proscribing these types of substances. The work of the European Monitoring Centre for Drugs and Drug Addiction has a key role to play in this respect. It has the best intelligence, it can source the information from different member states and act as a co-ordinating body at European level in identifying the types of products and acting quickly to adopt legislation. That would be of assistance to all member states dealing with this matter

Since 11 May when the Government made the Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2010 which brought a large number of the legal highs under the control of the Act, there has been identification of the emergence of a series of new legal highs, which shows how difficult it is to deal with this problem and it also highlights the importance of this legislation. The HSE has issued a warning on a new legal high known as WHACK. Deputy Reilly, our Fine Gael spokesperson on health, has also identified this drug, which has been the subject of 40 reports of severe adverse reactions. These reports were issued to the National Poisons Information Centre. This legislation is important. It has my full support and that of our party. We are anxious that it would be brought into effect before the summer recess.

The HSE confirmed on 1 June that 33 of 102 head shops around the country are open once again. They are not being deterred by the legislation introduced on 11 May. I hope this legislation will have the desired effect.

I refer to a number of aspects of the legislation. In terms of equipment and utensils connected to the use of legal highs, I note the Minister said it is not his intention to proceed with a provision in that respect given the urgency of this legislation.

I also note the statement in the presentation given by the chief pharmacist at the Department of Health and Children to the committee on 1 June, that many substances fall between two stools and are neither food nor medicinal substances. The regulatory impact analysis, which was conducted by the Department of Justice, Equality and Law Reform, stated:

equipment and utensils are currently offered for sale in headshops and...placing controls on the sale of such products would be beneficial. This approach would not have any significant direct cost implications. However, as such a provision could create difficulties for needle exchange programmes and services, the Bill will not include such a provision.

I do not see that this is a justification for not dealing with these implements. We can simply have an exception for needles. The Bills digest, produced by the Oireachtas Library and Research Service, points out that these headshops sell paraphernalia that are synonymous with the use of drugs, such as bongs or water pipes, materials for rolling and lighting cigarettes, and scales. Many of these implements could be easily identified when sold in association with these legal highs and prohibited substances. I see no reason for them not to be included in the Bill, and I ask the Minister to examine that. It is a gap in the Bill and closing that gap would strengthen the Bill.

The new powers given to the Garda, the onus of proof placed on vendors, the powers of search and seizure and the prohibition order which can be introduced by a superintendent are all welcome measures. There needs to be a specific action programme, drawn up with the help of the Garda, to implement this legislation, given the urgency and the impact of these legal highs. The feedback from such a programme would be very helpful in informing future legislation and finessing the existing legislation.

The Minister for Community, Rural and Gaeltacht Affairs indicated that there would be planning changes to prevent new headshops opening, and that this could be dealt with under the change of use of premises. I see no reference to that in the legislation and I wonder if the Minister before us can clarify whether it is intended to address that issue at some stage.

Members of the Alternative Traders of Ireland Association argue that the trade will be pushed underground and will become unregulated. That is a fallacious argument. Given that these legal highs are gateway drugs, particularly for young people, there is no basis in being deterred from introducing this legislation. The reaction to the Bill has been positive and the Dun Laoghaire Rathdown local drugs task force has welcomed it. Having been a former member of that task force, I appreciate that its members are well informed about what is happening on the ground.

The Bill's digest report shows the evidence of the effects of these drugs and states the following.

In ten days at the start of June 2010, 40 reports were received by the National Poisons Information Centre regarding persons suffering severe adverse reactions, including increased heart and breathing rates, raised blood pressure, anxiety and psychosis. Dr. Chris Luke, an Emergency Department consultant at Cork University Hospital and the Mercy University Hospital (MUH) in Cork, wrote of some of the dozen cases he had seen in the six months to January 2010 and the intense pressure casualties of legal highs were putting on emergency care facilities. Dr. Luke had previously written about the dangers of BZP and the number of patients he had seen with adverse effects.

The evidence is overwhelming. The innovation in the Bill is about how the drugs are defined. They were defined singularly under the Misuse of Drugs Acts. The broader classification is the most innovative part of the Bill and is to be welcomed.

I reserve the right to put down amendments on Committee Stage, but I do not wish to delay the introduction of this legislation, which is to be broadly welcomed.

Senator Lisa McDonald: The Minister described the legislation as robust, innovative and urgent, and he is right. That the British Home Secretary, Ms Theresa May, has expressed an

[Senator Lisa McDonald.]

interest in looking at our model of dealing with the problem is a compliment to the Minister and to his staff. They have dealt in an imaginative way with the problems we have encountered in the past year in trying to come to terms with this menace to our society.

We had a very good debate in the Senate some time ago on this matter, and the menace caused by head shops was robustly discussed on that occasion. The word “head shop” conjures up different images to people and most ordinary Irish citizens learned about these head shops through programmes like “Liveline” and did not really know what they were about. For example, there was such a shop in Wexford called “The Stone Zone” and I passed it many times before I realised what it was. This menace hit us before we knew what it was and it was underground for a long time.

One would wonder about the role of the local authorities in stopping the proliferation of these head shops, and whether they could be considered a dangerous use. The Minister for the Environment, Heritage and Local Government should look at this issue, in conjunction with the multi-pronged approach that has been taken by the various Departments in dealing with this matter.

This is a strong Bill, banning the sale, supply, export and illegal importation of psychoactive substances, without giving a definition similar to that used in the Misuse of Drugs Acts. It deals with things like bath salts that are sold in a glittery package or plant food that is clearly for human consumption. The catch-all manner in which the legislation is framed is excellent and it will assist the Garda and the courts in dealing with this matter.

The clever tool of using the prohibition notice and the prohibition order, with the balance of probabilities rather than beyond reasonable doubt as the burden of proof, is also an imaginative way in which we can readily close head shops. These substances are also on sale in other shops, such as Chinese medicine stores and sex shops. I hope we will not see a proliferation of them as a result of this but the legislation is far reaching and wide enough to capture the next move being considered. The fact that the people involved consider their next moves was clearly shown, as Senator Regan stated, after an order was made by the Minister for Health and Children on 11 May to make illegal the possession and sale of certain substances such as snow and methadone. We saw the immediate closure of head shops but 33 of them reopened the following week. This showed how difficult it is to be ahead of the curve on this issue. Given how it is being dealt with in the Bill, once it is passed we will be ahead of the curve and I hope we will see no more of these counter-culture shops.

We need to be mindful that experience shows that by and large when one tells children not to do something, they will do it. From speaking to teenagers who took legal highs I got the impression that they felt justified in taking them because they were legal. According to the teachers of these students, they would come into school on Monday mornings with their brains fried and they could not deal with it. They could see a deterioration in their students over a period.

I welcome the Minister’s statement that the national drugs awareness campaign will step up a gear. We will no longer be able to bandy about the phrase “legal highs” because substances having a psychoactive affect will be illegal. Experience has shown that new substances can quickly emerge on to the market but the Bill will control how we deal with these products as they emerge. It contains the flexibility we need to tackle a market as slippery as it is wrong.

The use of Whack is very frightening and leads to a range of symptoms which affect the heart and breathing rates and cause raised blood pressure. GPs have described the level of anxiety in at least seven cases as psychotic episodes. This is widely known by those of us who have studied the effects of head shop products. For younger people who merely consider them

as legal highs this message has not yet got through. It is hoped that through a good education campaign people will take personal responsibility. Recently, with regard to alcohol we have seen that the more we campaign and educate young people the more they are inclined to take an informed decision and be personally responsible.

On occasion in recent months, there have been queues of several hundred people outside head shops on Saturday nights. Certain politicians have called for head shops to be regulated. However, society is not at a point where they can be regulated and licensed to allow people make their own decisions. These products are dangerous and we do not have enough information on their effects to regulate or licence them. Accident and emergency consultants speak about children and young males in their mid twenties taking psychoactive substances at parties and having their brains fried. There is a very strong societal need for this Bill. It is madness to call for the legalisation of head shops at present because as a society we are nowhere close to being able to go down that road.

Last week I spoke to a young drug addict who told me he thought head shops were a godsend because he could cheaply obtain legal alternatives to cocaine and ecstasy. The products are far cheaper than black market cocaine and ecstasy. I use the word “addict” quite loosely; some people who take recreational drugs do not consider themselves to be addicts but there is a pattern of regular usage so they are addicts. This what the Bill will stop; when it passes into law we will stop people obtaining cheap alternatives to black market drugs, and people will know the products are not legal. The phrase “legal high” is a misnomer; the products damage people and are dangerous. The Government is quickly moving towards an innovative solution that will probably be examined by other jurisdictions when they deal with the matter.

The Minister has put much thought into the Bill. It will be challenging to implement it. It gives the Garda Síochána and the courts power to close the premises and will make it very difficult for the sellers. The selling of bongs and counter-culture paraphernalia can be used by gardaí to assist in proving that the seller is selling psychoactive products and the courts can close down the relevant store.

We must ask insurance companies why they insured head shops. I believe it has become far more difficult for them to be insured now. The Bill will send a clear message to the parents of children who tell them the products are legally available that they are not. Anything with a psychoactive effect will be considered to be a dangerous substance and will be dealt with as such. In the wider debate, the greatest concern is that if addicts can avail of something freely and easily they will use it and we need to keep such people at the centre of the debate. In passing the Bill into law we will assist such people.

The Minister described the Bill as robust, innovative and urgent, and I agree with him. I thank the Minister for the time he has spent on putting his stamp on the legislation to make it very difficult for this underground industry, and we saw that it is an underground industry when head shops were bombed by feuding gangs. Regardless of how they want to paint themselves, the people involved recklessly provide substances that can cause serious damage and harm to people taking them and to their families. This is a Bill which the community needs and for which it has been crying out in recent months. I commend the Bill to the House and I also commend the urgency and speed with which the Minister’s staff brought it to the House.

Senator Feargal Quinn: I welcome the Minister and I also welcome the Bill. I do not envy the Minister; it seems that no matter what he does somebody will find a way around it and he will have to return with further legislation. I think I live in a protected world. I was unaware of head shops. I listened to Senator McDonald who said hundreds of people were queueing on a Saturday night to go to them. I was unaware of it. I did not understand the situation until I heard about a person who ran a legitimate shop, which was a totally different business, near

[Senator Feargal Quinn.]

where I live, who was closing his shop because he was planning to open three head shops. It was a couple of months ago and I have not followed up to see whether he did so.

I was interested to note that the Garda Síochána said last month that the number of head shops had been reduced from 102 to 36. However, it was reported last week that more head shops have re-opened since the publication of a list of banned substances. Different substances which were not listed as illegal appeared on the shelves and business picked up again. I do not know how true these anecdotes are. The Minister gave us a great deal of information in his very detailed explanation of the Bill today. It gives some indication of how difficult it is to police the situation.

I read an interesting quote from forensic toxicologist, Professor Jenny Button, who is head of the toxicology service at St. George's University, London, who said, "Through clever chemistry an illegal drug can be changed into a legal one. It is going to be a case of constantly playing catch-up". The Minister is constantly playing catch-up because that is the challenge facing us. For instance, a range of new drugs have recently arrived in Ireland ready to fill the gap left by methedrone, something which the Minister and Senator Regan mentioned.

There is also the fact that more than 40 reports of severe adverse reactions to a new head shop substance called Whack have been received by the National Poisons Information Centre, as Senator Regan told us. The HSE recently said users of the product had suffered a range of symptoms including increased heart and breathing rates, raised blood pressure and anxiety. At least seven of those treated experienced psychotic episodes which the HSE said were severe and proving very difficult to treat. Kildare County Coroner Professor Denis Cusack, speaking last Monday, warned about the danger of drugs sold in head shops following the death of a young woman from an overdose of multiple drugs, including two products sold as so-called legal highs, a case to which the Minister referred. Professor Cusack confirmed it was the first time he had dealt with a case where it appeared so-called head shop drugs were a contributory factor in a death.

This Bill will mean that anybody convicted by a jury of selling a psychoactive substance and who comes before a judge will face a maximum sentence of five years' imprisonment and a fine. It is a serious crime but some people will question its harshness given the lenient nature of sentences we have seen handed out to murderers, rapists or child abusers. Some of the public will legitimately question the Government's crime priorities. It is not in the Minister's hands to influence judges but it appears that there is an imbalance on occasions in the sentences handed down.

While people caught selling illegal substances will face long prison sentences with this Bill, I wonder how strictly the measures will be enforced. I say this as I read last month that so called legal highs were being openly sold on the boardwalk on the Liffey every morning. How can we be sure that the new measures included in this Bill will be enforced? The other problem is that by making head shops illegal it may drive the problem underground. There is also a legitimate question to be asked in wondering if drug dealers are buying up spare stock from the head shops that have been shut down. Could they use the former legal highs as a lead-on to harder drugs? We had heard here how people are tempted along the path to try harder drugs. This is a real and dangerous potential by-product of the Bill, in spite of what we have been doing.

We also have the situation whereby shops may become legal. For instance, shops could offer an illegal delivery service, which is already happening. I am not sure how we handle Internet shopping but it appears that it will be difficult catch up with somebody who is able to make a large amount of money out of these products. I understand that the HSE plans to implement

a delayed national awareness campaign on illegal highs at the end of the month. I would like to know if there are any plans to produce a DVD to be sent nationally to show people the physical and mental side effects of taking chemical substances. I believe this is being done in the United Kingdom. Are there any similar plans here?

The Minister has produced a Bill of which we will all approve. It is necessary and I understand from his explanation why he has not included everything he wanted to, but no matter what we do those on the other side will also take steps to continue to trade. I would not be surprised to see, no matter how strong the legislation is, that the Minister will be before the House again because those selling these products see the money and profits which can be made. There clearly is a demand for the products. I support the Bill and encourage the Minister to ensure that its measures are enforced with vigour.

Senator Dan Boyle: The explanatory memorandum accompanying the Bill which explains in its first four paragraphs its main purposes is very clear and succinct. It refers to head shops being an issue of public concern in recent months, how the Misuse of Drugs Act has not seemed to be satisfactory in dealing with the substances sold in such shops, outlines the Government's multi-pronged approach in terms of the Government order of 11 May prohibiting certain substances and explains the need for this Bill to tie up existing loopholes. There is broad agreement that such legislation needs to be put in place and such powers need to be given and acted upon.

There are concerns about how the Bill addresses the wider issue of drug use here. Senator Quinn outlined many of those questions. The Minister's remit is to take a just approach to this issue and the approach chosen by the Government and the Minister is correct. However, it does not bring us closer to dealing with the wider problem of drug use and abuse here. We all have a responsibility to deal with the societal and health effects which accompany many of these issues. What is of particular concern in terms of the growth of head shops across the country is that it highlighted how young people, in particular, were attracted to the shops and the products they sold and were tempted to use many of the products they contained. As a result of that, there has been a public reaction.

The extent to which this represents a culture which is already in existence and may continue to exist, whether head shops are allowed to retail their substances, is something which we as legislators have to continue to address. We need wider debate on that subject. Whether head shops exist for young people, we will still have many serious problems, in particular in the area of polydrug use where young people who are using alcohol as a gateway drug combine it with smoking cannabis, popping pills or ecstasy, often at the same time, with serious personal and social consequences.

In general, the Minister is taking the correct approach in presenting the Bill, its sections and its powers. I am concerned about section 4. I do not know whether the Minister can consider it on Committee Stage or when it goes before the Dáil. Section 4 states:

A person who sells any object knowing that it will be used to cultivate by hydroponic means any plant, fungus, natural organism or substance in contravention of section 17 of the Act of 1977 shall be guilty of an offence.

Hydroponic cultivation is the cultivation of plants in liquid containing nutrients without soil in controlled conditions of light, temperature and humidity. This cultivation is known to be used for the purposes of growing cannabis indoors. However, this is also true of many other horticultural practices. I would like to know how the Minister feels the general prohibition will prevent other horticultural activities not aimed at producing plants such as cannabis. It is a concern many people have.

[Senator Dan Boyle.]

The main intent of this Bill is to stop access to the end products of head shops. Section 4 has a particular application in that it addresses hardware which can be used in the production of such products. It seems to be a step removed from the intent of the Bill and much of its other sections. Some thought may be needed on coming up with a definition that permits exemptions in this area, perhaps by way of licence, just as other sections of the Bill make exemptions for medical practitioners, doctors and pharmacists. The Bill has broad support across both Houses and the public but we have a responsibility to scrutinise and test its detailed sections. The only section that I can envisage as being open to a particular interpretation that would prevent certain people from engaging in legitimate activity is section 4 and I would be grateful if the Minister gave his consideration to my comments.

I welcome the Bill in general terms. It will have an effect on proliferation and the ability of head shops to sell their products. I do not believe it will eliminate them entirely but I am not even sure their elimination would be a completely positive development. However heinous their activities or the products they sell, they shine a light on activities in our society. Sometimes we need a dark side to show us where to improve society. I look forward to seeing necessary improvements being made to the Bill as it progresses through the House.

Senator Ivana Bacik: I welcome the opportunity to discuss the Criminal Justice (Psychoactive Substances) Bill 2010 with the Minister. The Bill is a response to increasing public concern about the proliferation of so-called head shops. I struggle to come up with a different expression to “head shop” which, like joyriding, has become commonplace in our language. It is a pity we cannot use a more precise or less flippant term.

The Minister noted that 102 head shops were trading when the order was issued in May to bring certain substances within the Misuse of Drugs Act 1977. The order did not ensure the closure of all of these head shops because, as he acknowledged, 48 head shops were still trading on 10 June. The remarkable increase in the number of these shops has led to the increased concern about them.

There is a perception that they cause immense harm. The products they sell have been widely used by persons who are already addicted to substances. Senator Boyle and others raised the issue of polydrug use. Great harm is caused to, for example, those who are already addicted to opiates when they use head shop products to compound existing problems of addiction.

Double standards are evident on many levels, including the portrayal of drug use and head shops in film and other media. While the legal approach is to criminalise, popular culture takes a different view of drug use. We take a very different approach to alcohol, the drug which causes the most harm in society. We allow legal access to alcohol, albeit regulated by reference to age, even though we are aware of the immense personal, social and economic harm that results from the epidemic of alcohol abuse, including the terrible scourge of suicide. We are not seeking to criminalise alcohol in the same way as head shop products and the substances covered by the Misuse of Drugs Act.

We held a more general debate on drug use in December 2007. The then Minister of State at the Department of Community, Rural and Gaeltacht Affairs, Deputy Pat Carey, pointed out the importance of taking a cross-departmental approach and this is also recognised in the Government’s national drugs strategy. When we debate legislation aimed at a particular mischief and introducing prohibition orders, we are focusing on criminal law approaches but we must take a holistic and cross-departmental approach when addressing the broader picture of drug use and addiction. The then Minister of State accepted the need to be rational in considering the issue of drugs. We must also devise credible measures to reduce the harm associated with drug abuse and, in particular, to reduce the number of tragic deaths resulting from abuse.

One school of thought suggests that scare mongering is the answer but the people who put themselves at risk by taking drugs are unlikely to listen. Blunt slogans such as Nancy Reagan's advice to just say "No" are no longer seen as effective ways to prevent drug use. It is similar to asking people to abstain from sex to prevent the spread of HIV and sexually transmitted diseases. A more rational approach based on harm reduction and death prevention and involving a credible message could have greater effect. I am not necessarily criticising Government policy in this area because it takes a rational approach to drug addiction with, for example, the HSE methadone programme, which treats addiction as a medical problem, and the stronger commitment to rehabilitation.

However, drug rehabilitation needs to be better resourced if it is to be a goal of sentencing in our criminal justice system. As somebody who has worked in the criminal justice system for years, I have seen at first hand the terrible trauma inflicted on the families of addicts and those who have been victimised by addicts. Heroin addiction does huge damage to communities, individuals and their families. Perhaps the Minister will outline his long-term plans for the drugs court. This court was introduced as a pilot project and while its full implementation has been promised, we have not yet seen progress on it.

I am associated with the drug policy action group, which comprises people working in the area of drug rehabilitation and the front-line provision of services to drug addicts. The group came together with the aim of fostering a rational debate on drug policy and exploring alternative policy means to reduce the harm associated with drug abuse. It suggested that some of our approaches which focus solely on criminal justice have tended to increase rather than decrease the harm associated with drug use. For example, mandatory sentencing may not have an effective impact on reducing the supply of drugs. It strongly argues for a greater emphasis on medical approaches to addiction, including drug rehabilitation for persons in prison.

I acknowledge that great strides have been made in Mountjoy Prison, in which significant problems had previously arisen because of the absence of a methadone regime. However, the incidence of drug use in prison continues to be a concern. I am aware of cases involving people on drug rehabilitation programmes and regulated methadone regimes who became addicted to drugs again while in prison.

We need to investigate harm reduction strategies in other countries, including imaginative targeting of people at risk from the harm associated with drug abuse.

There is an argument for taking a different approach to some drugs, in particular cannabis. In England, for example, the possession of cannabis has been downgraded as an offence. There is a rationality associated with such an approach since there is less harm associated with cannabis use than with the use of other drugs such as opiates and cocaine.

The elephant in the room, the issue that is often not mentioned when we speak about drugs, is disadvantage. We know that a great deal more harm is done in disadvantaged communities by the abuse of illegal drugs, opiate addiction in particular, than elsewhere. Therefore, any approach to drug policy must take into account the issue of economic disadvantage. Having seen families suffer, particularly through the current economic recession, we do not want the disadvantaged communities which have never been lifted by the Celtic tiger to slip into further disadvantage. We certainly do not want opiate addiction to take even greater hold in communities. Drug policy must address the difficulty of economic disadvantage and its impact on drug addiction.

The Labour Party supports the approach taken in the Bill of using a more general control mechanism. The Minister spoke about the difficulty of taking a piecemeal approach to bringing individual substances under the headings of the Misuse of Drugs Act and noted that the chemical compounds simply changed and that it, therefore, became a matter of time before the shops

[Senator Ivana Bacik.]

selling these products reopened. The method proposed is more rational and will, I hope, be more effective.

A much wider issue arises with regard to drug policy and our approach to drug addiction and abuse and a much broader range of measures is necessary to target those at risk of drug addiction. We must target educational messages at disadvantaged communities, introduce harm reduction measures and ensure adequate resources are available for drug addiction programmes, including the methadone maintenance programme operated by the Health Service Executive. We must avoid simply locking up addicts without treating addiction which must be viewed as a medical rather than a criminal justice problem.

Acting Chairman (Senator Geraldine Feeney): The Government Chief Whip has indicated he does not object to Senator Buttimer speaking out of turn.

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire. I also thank the Whip for allowing me to speak now.

I compliment the Minister on the Bill. Notwithstanding the cross-party support for the legislation, some of the measures taken by the Government to tackle the drugs problem have not worked and Government policy on the wider issue of drugs and drug abuse has created major problems. I look forward to engaging with the Minister for Community, Equality and Gaeltacht Affairs, Deputy Carey, on the issue in the weeks and months ahead.

We must combat the drugs scourge collectively and address the rehabilitation pillar of the national drug strategy which has been neglected. Any measure which clamps down on the sale of legal highs in head shops is welcome. For this reason, I commend and support the provisions of the Bill. It is appropriate that the Garda Síochána will acquire powers to seek to have so-called head shops closed. Why did the number of such shops spiral in recent times? I laugh and cringe when I hear the proprietors of head shops extol their virtues on radio and television and in the print media. They are in business purely for self-interest and to make profits. They do not care how they do so.

It is wrong that head shops sell psychoactive substances and I am pleased efforts are being made to prevent them from doing so. These substances are not fit for human consumption. I have with me a label which extols the virtues of one of the products on sale in head shops. To protect the proprietors of the shops, it cleverly — I use that word glibly — features the words “Not for human consumption”. Who do they think they are coddling?

I welcome the decision to introduce new offences. This is the correct approach and in line with the model in place elsewhere in Europe and in countries such as New Zealand. I am outraged when I speak to families who have been affected by the products sold in head shops. I am also at a loss to understand the reason it has taken so long to reach this point. I compliment Ms Grainne Kenny and others who have been at the forefront of the campaign to have head shops closed down. Senator Wilson was one of the first Members to speak on the issue when these outlets were in their infancy. Senator McDonald and I also raised the issue in the House.

The legislation shows that the Government can secure change and movement when it achieves consensus. If only it had listened to the Opposition on economic matters, the country would be in better financial shape.

I welcome the measure which shifts the burden of proof from the Garda Síochána to the vendor. There is no doubt that psychoactive substances are being sold in head shops. The label I have refers to “smoke and pills and stuff” and has the brazen cheek to provide a website address. If one telephones a head shop, one will be given a menu of the products on sale. I welcome the decision to address the issue of packaging of head shop products.

Head shops are selling new and potentially dangerous products. Anyone who has a vision of a proper society will welcome the powers provided in the Bill to close down these shops. I am concerned, however, that their proprietors will find a loophole in the law. For this reason, we must ensure there is joined-up thinking as regards the planning laws and the role of local authorities. We live in a democratic state rather than a dictatorship. I wonder however how the planning process can allow head shops to be open. It is important to ensure there is joined-up thinking on this matter between local authorities, the Health Service Executive and the Departments of Justice and Law Reform and Health and Children.

The sale of drugs paraphernalia in head shops such as bongos, pipes and other accoutrements is a complex issue. I hope it will also be addressed at some point because we have an obligation to the weak and the vulnerable and those who do not understand the complexity of the issues involved. To that end, I will address a comment to the Alternative Traders of Ireland Association which has voiced opposition to the legislation. It has not made a compelling argument against the Bill or explained the reason we should support its case. It has ignored concerns about health and well-being and ducked the issue of the dangerous side effects of the products sold in head shops. It did not address the lies told in advertising for head shops, stating instead that their shops were legitimate businesses which paid rent and VAT and provided employment. While that may well be the case, the association does not refer to the damage caused by head shops. I do not subscribe to the view that the drugs trade will be pushed further underground than it is already.

Any study of the products sold in head shops will make support for the Bill compelling. I pay tribute to the many hundreds of parents across the country who have protested, lobbied and advocated for common sense. I thank the Minister for bringing this important Bill before the House for which he has our support. I hope this will be a day when we will see the beginning of the end of these head shops and we will put them out of business for ever.

Senator Diarmuid Wilson: I wish to share time with Senator Walsh.

Acting Chairman (Senator Geraldine Feeney): Is that agreed? Agreed.

Senator Diarmuid Wilson: I welcome the Minister, Deputy Dermot Ahern. I congratulate him on the speedy response to this horrific problem that has been sweeping across the country. As I have pointed out on several occasions in this House, these shops were springing up in every town and some villages throughout the country on a weekly basis. Thankfully that has ceased.

It used to take approximately 20 years for something that happened in the United States to reach our shores. When I researched the origin of head shops, I was fascinated to discover that the first shops appeared in the United States of America generally in towns where there were student populations almost 40 years ago. It took quite some time for these unwanted shops to appear here. I first became aware of such shops here when it was brought to my attention towards the latter part of 2008 by one of our councillors in Cavan, Councillor Patricia Walsh, that it was proposed to open such a shop in Cavan town.

When I started researching what was on sale in these head shops, I was horrified. In November 2008 I raised the matter on the Adjournment, having researched head shops quite extensively. On that occasion I raised in particular the problem the so-called “party pill” or BZP was causing for our young people. At the beginning of April last year I was glad to be in a position to report to the House that on 31 March 2009, the Minister for Health and Children added BZP to the list of proscribed drugs under the Misuse of Drugs Act 1997.

During research into these products and shops I was horrified at the advertisements that appeared on the Internet. For example, a product called e-blast, which is similar to the drug

[Senator Diarmuid Wilson.]

now called whack to which the Minister and other speakers referred, was described on a website as follows:

Like a lightening bolt of pure energy straight to your brain, E-Blast pills are guaranteed to make your jaw clench, your hair stand on end and your feet to want to hit the dance floor. Take that feeling you get when the moon is full, you're looking good and feeling good and out for a night of carnage, you know, the kind of night where colours seem brighter, music sounds better and you feel unstoppable.

I welcome that the Minister for Health and Children, Deputy Harney, announced on 11 May 2010 that an order declaring a number of substances commonly referred to as "legal highs" would be controlled under the Misuse of Drugs Act 1997 with immediate effect. These substances are dangerous and their sale and consumption have caused considerable anxiety to families and communities throughout the country. The possession and supply of these illegal substances are subject to criminal sanction of up to seven years' imprisonment on indictment and a penalty of imprisonment for life applies to unlawful supply, which I welcome.

I again congratulate the Minister on bringing this legislation before us so quickly. The Bill is part of the Government's multi-pronged approach targeting the activities of head shops. The primary vehicles for regulating psychoactive substances are the Misuse of Drugs Acts 1997 to 2007. On foot of the Government order of 11 May, the Minister for Health and Children made the necessary statutory instrument to make the possession and sale of certain substances subject to criminal sanctions under the Misuse of Drugs Acts.

Based on Garda information, I understand that at one stage 102 of these shops were open and now there are approximately 48. I welcome that the head shops in Cavan town and Monaghan town have recently been closed as a result of the activities of the Government. The activities of these head shops are being closely monitored by the Garda and Customs. It might be worth reviewing planning regulations for these shops. There are restrictions on when young people can purchase a burger at night but at the moment there is no restriction on when young people can purchase these horrific substances in head shops, which are entitled under our planning laws to stay open for 24 hours a day. I congratulate the Government on its efforts to close the various loopholes regarding these head shops.

Senator Jim Walsh: I thank Senator Wilson for sharing time. I also welcome the Minister and compliment him on the introduction of this Bill. It is symptomatic of the energy and focus he has applied to a wide range of criminal offences in trying to plug various loopholes in legislation that were being exploited by criminal elements. In this instance the sale of substances was having an effect on society.

Head shops are a relatively new phenomenon. They identified a wide range of substances which are not covered by the Misuse of Drugs Acts. In that regard we all welcomed the statutory instruments introduced in May by the Minister for Health and Children proscribing the sale of certain substances under the Misuse of Drugs Act. Comments have been made by Members in that regard. That action had significant success in that 54 of the 102 head shops were closed as a consequence. However, there are still 48 operating and I certainly welcome that the new legislation identifies that a time-lag in dealing with new drugs that will emerge in the future would be an issue. The Bill introduces general control to address head shop products as they emerge. Other Senators have mentioned that the effects on individuals and their families are dire when people become addicted to drugs. In certain instances people have overdosed and consequently lost their lives or lost their use of reason. Any effort that can be made in this regard is to be applauded.

Section 20 provides for fines of up to €5,000 and up to 12 months' imprisonment for those convicted of these offences. A month or two ago when this issue got considerable coverage in the media and the Minister was applying himself as to how best to deal with it, I discovered anecdotally that one head shop in the south east had a turnover of €10,000 in one week, with €6,000 profit. There is a huge amount of money involved and one can see the motivation behind the growth in the number of outlets which are having a significant effect on local populations and society in general. I noted that quite a number of head shops had been burned down and that in many instances it was suspected that it was arson, probably promoted by competitors in the criminal drug trade who found their businesses had been affected. This brings home the idea that the matter needs to be kept under continuous scrutiny.

In the past month I listened with interest to a radio programme on RTE 1 on which it was outlined how an individual in Britain had examined the history and growth of the gang culture in Britain. In the past young people became involved in gangs to gain a sense of identity and to feel more like adults than young adolescents. Young people became involved in anti-social behaviour and minor criminal activity. It was argued, however, that as they reached 17, 18 or 19 years, they would depart from gangs, take up normal jobs and occupations and become normal members of society. The modern view is that because they become involved at a young age in selling drugs, they may as a consequence become dependent on the income stream and continue into adulthood within the gang structures. Many reach the top of major criminal gangs in Britain. It was estimated by the expert in question — I do not know how accurate it is — that the drugs trade in Britain was worth something in the order of €40 billion a year. It is, therefore, a significant business. I do not know what the basis for the figure is, but it stands at €10 billion for Ireland. We are facing great difficulties, especially as such activity is ongoing. If one were to apply the VAT rate of 21% to the figures mentioned, it would give a figure of €2.1 billion, which shows the significant amounts of money involved in this business. The time may have come for us to take a fresh look at how effective our measures are and the new initiatives that could be taken. I know the Minister has shown a degree of innovation and initiative in tackling this issue and perhaps it might be extended to a broader range of issues. It is not just an Irish phenomenon, as it affects all western democracies.

Senator Mark Daly: I welcome the Minister and the Bill which follows the misuse of drugs order presented in May to proscribe over 200 drugs. Last year drug dealers were coming up with a new version of a drug every two weeks to get around the law. The Bill will close down head shops. There is a provision to make it a civil rather than a criminal offence which means the matter can be dealt with in a civil court using the powers available to a superintendent and that action can be taken more quickly as a result of a reduced burden of proof. As we have all heard the horror stories, this action is timely.

I organised a public meeting in Killarney last Monday night which was attended by 250 people, mostly mothers concerned about their children and others. Many admitted afterwards that they had lacked information on head shops and their impact. Stories were told of how children, in speaking to the Kerry Diocesan Youth Service, had said they saw head shops as legitimate as they were open to the public. A counsellor who had spoken to children as young as 13 years who had fallen under the spell of such drugs said that when asked if they would take cocaine, they had replied that they would not because that drug was illegal. As the products in question are sold as legal highs, their use does not seem to be considered wrong unlike the use of heroin or cocaine.

I compliment the Garda Síochána on its work. Garda Denis Lenihan from the Killarney division spoke about the powers available under the Misuse of Drugs Act, as well as the Bill before us which deals with psychoactive drugs. He also spoke about the powers to be given to

[Senator Mark Daly.]

superintendents to go into head shops and bring offenders before the courts if they continued to break the law.

The big issue concerns the way parents control their children. Many have stated there are no boundaries on coming home. In fairness to the Kerry Diocesan Youth Service, it has indicated the law can only do so much. Ultimately, parents must know where their children are and indicate the times at which they should come home. If they see signs of drug use, early intervention is critical. Mr. Des Bailey from the service is supposed to concentrate on issues in the Killarney area, but the scope of activities has been extended to cover all of south Kerry because of this epidemic. When 11 people present at the accident and emergency unit in Tralee or in Killarney on a Saturday night suffering from the ill-effects of these drugs, it shows the scale of the epidemic.

It is a myth that soft or gateway drugs such as marijuana are harmless and it was dispelled at the meeting. People are under the impression that it is okay to use marijuana. Ms Leona Cronin from the Kerry Addiction Counselling Service pointed out that marijuana was 60% to 80% more powerful and potent than it was 20 or 30 years ago. There is an 80% chance that one will suffer from a psychotic effect after long-term usage of marijuana. It comes down to getting information to parents through radio programmes and newspaper articles. Their ignorance and lack of information on the symptoms and consequent action to be taken have been admitted. To a degree, that is a failure on our part also to provide the education they need on what should be done in the protection of children.

As outlined by the Minister, implementation of the Bill will take place in the next couple of weeks. Head shops will be closed down, but preparations have been made to move underground, with off-site operations to be set up. A market has been created in the past few months and there is a database of clients in place. These clients will need their fix and will continue to go to the suppliers of the most potent drugs. Whack, the most recent version, has been proved to have a serious effect on a person's mental capacity. Once people take these drugs, their personalities are permanently altered. There is a frightening statistic which indicates that between 10% and 15% of those who dabble in drugs will become addicts. Not all of them recover or get their lives back. This is a welcome move by the Government. The Government has taken this by the scruff of the neck and introduced legislation to close down head shops. They have now been criminalised so we must bring the full force of law to bear on them.

I compliment *The Kingdom* newspaper and Radio Kerry on the meeting they organised for Monday last. As some individuals pointed out, that was the longest and most pleasant day of the year to date in Kerry and it was expected to be difficult to encourage people to attend the meeting. However, some 250 people attended to educate themselves in this matter. This is an indication of the concern. I hope the Government, through the citizens information bureaux and other agencies, will take an active role in the context of disseminating information to parents and children on this matter. The children and young adults taking these drugs do not see a problem with them because they were previously seen to be legal. As explained by the Kerry diocesan news service, children who would never have become involved with drugs or spend time in the company of those who were so involved are now involved because the substances with which the Bill deals were previously seen as being legitimate.

The Bill will criminalise this entire area, which will put a stop to more children becoming involved with the drugs scene. That is a welcome development. I ask that, during the summer months, an information campaign be mounted on radio and by means of Facebook. The latter is an easy medium through which to access children and advertising on it is relatively cheap. The European headquarters of Facebook is located in Dublin so that should make matters easy in this regard so that children might educate themselves on the ill effects of the type of

drugs to which I refer and what will happen to them if they become involved in using these substances. It would be of assistance if those who previously took these drugs and whose lives have been irrevocably changed as a result, provided testimony in respect of what happened to them.

At the meeting to which I refer, Leona Cronin of the Kerry addiction counselling service pointed out that for every one person who becomes involved in drugs or who becomes an addict, seven others — including family members, friends, and so on — are affected. We must take steps to prevent the effect this can have on society.

Deputy Pat Carey: I welcome the opportunity to reply to the Second Stage debate on this Bill. I thank all the Senators who contributed to that debate.

There is broad support for the Bill. When we were complimenting its introduction, I stated that we should try to draft legislation that would be as watertight as possible. The Bill is probably as close as we are going to get in that regard. I am under no illusions on the capacity of those involved in the drugs industry to find loopholes. It is our job to close as many of them as possible.

As Minister with responsibility for the national drugs strategy, I view head shops and the psychoactive substances they sell as representing a relatively new but ever-evolving aspect of substance misuse in society. The Government is determined to tackle the problems arising from such misuse and to pursue all viable approaches to counter the potential threats involved. In May, the Minister for Health and Children, Deputy Harney, introduced regulations, under the Misuse of Drugs Act, to regulate more than 200 products. The introduction of these controls and the Bill before the House sent out a clear message, particularly to young people, with regard to the dangers relating to the psychoactive substances sold through head shops and via the Internet.

We always knew there would be a reaction from head shop owners to the controls introduced in the context of trying to source alternative substances. The introduction of new products is a global issue. Substances will continue to be monitored with a view to periodically introducing controls in respect of new products which have the potential to have a detrimental effect on people's health.

I came across this matter when serving as a Minister of State two years ago. At that time, there was some anxiety to the effect that an element of self-regulation might be introduced in respect of this industry. I was not in favour of self-regulation at that stage and I certainly do not favour it now. The capacity of the industry to reinvent itself is worrying. However, legislation such as that before the House probably provides the one sure way for society to clamp down on this pernicious and insidious industry, which has gained quite a foothold in society.

It is against this background that I strongly support the Criminal Justice (Psychoactive Substances) Bill 2010, which, in conjunction with the Misuse of Drugs Act, will provide a comprehensive response to issues relating to psychoactive substances and head shops. The Bill will make it an offence to sell or supply substances which are not prohibited under the Misuse of Drugs Act but which have a psychoactive effect on humans. It will also make it an offence to sell objects that are intended for use in the cultivation of certain plants by hydroponic means, thereby tackling another aspect of drug production. Another substantial feature of the Bill is the significant powers it grants to the Garda Síochána. Like previous speakers, I compliment the Garda Síochána on the effective and proactive approach it has taken since the new regulations were introduced.

The actions taken by governments in other jurisdictions in respect of this matter are being monitored. In the context of its response, Ireland is in the forefront in this regard. The Criminal

[Deputy Pat Carey.]

Justice (Psychoactive Substances) Bill represents another significant step forward. The national advisory committee on drugs is undertaking research on new psychoactive substances of natural and synthetic origin and the outlets which supply them. This will add further to our knowledge in this area.

As the Minister responsible for the national drugs strategy, I will continue to co-ordinate the response to new psychoactive substances across the various Departments and agencies involved. I see this as being crucial in the context of supporting the implementation of the proposed legislation and maximising the likelihood of the desired impact being achieved. Much of what will be needed will involve inter-agency co-operation. In that context, the health service, the Garda and customs will be obliged to work together, including in the development of an early warning procedure in respect of new psychoactive substances.

I compliment the Minister for Justice and Law Reform, Deputy Dermot Ahern, on the prompt action he took in respect of this matter. I also compliment the Office of the Parliamentary Counsel and the Office of the Attorney General for the work they have done in this area.

Senators Regan, McDonald, Buttimer and Wilson referred to planning controls in the context of opening head shops. Most local authorities are in the process of framing their new development plans. In that context, they should include provisions in those plans relating to change of use, the definition of “shop”, and so on. Some local authorities, of which Clare County Council is one, have already taken steps in that regard. In conjunction with the Minister for Justice and Law Reform, I will work with the lead Departments to discover how the measures in the Bill and the provisions in existing planning legislation can be further enhanced.

Senator Regan expressed the belief that, despite difficulties relating to legitimate use, the sale of drugs paraphernalia should be an offence. I had hoped it would be possible to include a provision to deal with the matter to which the Senator refers. However, one of the issues that arose was that some of this paraphernalia includes needles, which are used in the needle exchange programmes relating to the treatment of drug misusers. The Minister for Justice and Law Reform is prepared to examine the possibility of whether bongs, pipes and other utensils might be included on the list of items which cannot be sold in retail outlets.

Senator Boyle raised a query on section 4 on the sale of hydroponic equipment. Concerns have been expressed that legitimate hallucinogens could be inadvertently banned under the section. The Minister is aware of these concerns. To commit an offence under the section, it is necessary for a person to know that a substance will be used for the cultivation of controlled drugs. In other words, as I understand it, the commission of an offence does not occur, unless a person knows heating, lighting or other substances will be used for that purpose. However, I will have the matter clarified.

Senators Daly, Quinn and a number of others spoke about the need for an information campaign. In the next couple of weeks the HSE will launch an awareness campaign targeted at young people which will involve the use of different forms of media and attendees at concerts and weekend rock festivals.

Senator Quinn asked if a DVD on the dangers posed by head shop products could be distributed to schools. My Department is exploring having a new phase of an awareness campaign and already operates the Dial to Stop Drug Dealing campaign which will continue until the end of the year. I take the point that to get the message of awareness campaigns across, we need to explore new media, including digital and electronic, which are the stock in trade of young people. The launch of the HSE campaign is imminent. It will prove timely and effective.

Debate on the Bill will continue in the House tomorrow when Committee and Remaining Stages will be taken. The Minister for Justice and Law Reform, Deputy Dermot Ahern, will,

as he stated, table an amendment to the Schedule to the Bail Act 1997. He will also table a number of minor technical drafting amendments.

I welcome the legislation which I believe forms an important part of the comprehensive effort to control the sale, distribution, importation and export of psychoactive substances. I thank Senators for their contributions in what has been a constructive debate on Second Stage.

Question put and agreed to.

An Cathaoirleach: When is it proposed to take Committee Stage?

Senator Diarmuid Wilson: Tomorrow.

An Cathaoirleach: Is that agreed? Agreed.

Committee Stage ordered for Thursday, 24 June 2010.

Sitting suspended at 1.45 p.m. and resumed at 3.30 p.m.

Merchant Shipping Bill 2009: Committee and Remaining Stages

Section 1 agreed to.

SECTION 2

Question proposed: "That section 2 stand part of the Bill."

Senator Paschal Donohoe: Last week during the debate on Second Stage I stressed that Fine Gael supported the Bill, but I have since had the opportunity to review it in more detail and would like to hear the Minister of State's response to some observations of mine. Section 2 contains definitions. A number of things struck me and I would like the Minister of State to consider them. If he cannot give a response today, he may do so when we take the final Stages of the Bill. The only person defined as being on the ship is the ship's master. In later sections, particularly those dealing with safe manning regulations and unsafe ships, the Bill makes several references to crew members and other personnel on the ship. However, these are not defined in the Bill. Can it be amended or improved in some way by including a definition of other personnel on the ship, apart from the master?

In various places in the Bill reference is made to passenger steamers. This strikes me as a quaint definition of a seafaring vessel. Would it improve the Bill if this phrase were more tightly defined in section 2?

The definition of an Irish ship in the Bill is "a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955". Does this mean the Naval Service is excluded from the provisions of the Bill? There are many references in later sections of the Bill to safety and safe manning regulations which could well be applied to the Naval Service. Does the exclusion of a ship of war from the definition of an Irish ship mean the Naval Service is excluded from the provisions of the Bill?

Minister of State at the Department of Foreign Affairs (Deputy Peter Power): The definition of master in the Bill is, "the person having, for the time being, the command or charge of the ship". As I understand it, the Senator asked if the legislation would be improved by expanding the definition to include other persons on the ship. A careful note will be taken of that query. However, the obligations arising from this legislation and international conventions relating to these matters are placed on those persons in control of the ship rather than those who might

[Deputy Peter Power.]

be working on it. Therefore, I do not know how expanding the definition would improve the Bill. The crew of a ship would be protected by the provisions of the Bill.

A passenger steamer is defined in the Merchant Shipping Act 1992 and earlier statutes. Therefore, a revision of a definition would need to be addressed in a consolidation Bill. Would such a revision add something to the legislation? By any ordinary construction, the term “ship” include any seafaring vessel in Irish waters. Any ordinary vessel that travels the seas will be covered by the legislation. The Senator’s proposed extension of the definition would not, therefore, add to the Bill. However, at his request, a note will be made of the matters he raises and consideration given to them in the event that the suggested changes would give further meaning to the definitions section in the Bill.

On the question of whether the Bill covers ships of war known as such under section 9 of the Mercantile Marine Act 1955, I draw the Senator’s attention to the fact that the Act does not apply to ships of the Naval Service which are wholly manned by its personnel. It sets out that Irish ships entitled to bear proper national colours and assume national character are State owned ships; ships wholly owned by Irish citizens or Irish bodies corporate and not registered under the law of another country; and other ships registered or deemed to be so under the Mercantile Marine Act 1955. Whether Naval Service ships should be covered by this section is a separate issue. The Bill has been designed to apply to merchant ships or other vessels. Other legislation covers the conduct and activities of ships of the Naval Service.

Senator Paschal Donohoe: I thank the Minister of State for his response in regard to the passenger steamer and our own Navy which makes sense to me. It would be worthwhile looking at my point about the need to consider defining the crew of the ship because although the only person on the vessel given legal definition is the master of the ship, in different parts of the legislation other personnel are referred to in different ways. I shall give one example to show that my point merits consideration. At different stages in Part 6 of the Bill reference is made to the ship’s crew. There might be benefit in defining this crew. Is it people who are on the ship for a continuous period or does the definition cover those who merely set foot on the ship? A vessel might be performing some kind of commercial service where there would be high turnover in the personnel on board and so on.

There might be nothing to this but given that many other terms in the Bill are so rigorously defined it strikes me as odd that we define only one person on the ship, namely, the master while other people on the ship are given different definitions in other parts of the Bill. There is no consistency or harmonisation in the definitions. I shall leave this with the Minister and perhaps we can look at it on Final Stage.

An Cathaoirleach: I bring to the Senator’s attention that it was ordered that all Stages of the Bill were to be taken today.

Senator Paschal Donohoe: Will Final Stage be taken before Private Members’ business?

An Cathaoirleach: Yes, as ordered, if we get to that. Private Members’ business is scheduled for 5 p.m. but it may come afterwards.

Deputy Peter Power: The Senator’s point is well made, in fairness to him. We are on Report Stage in the Seanad, however, and there is no scope for further amendment of the Bill. I reiterate my earlier point that the master of the ship has responsibility for ensuring overall safety on the ship. His obligations and legal responsibilities are enshrined in this legislation and he is the relevant person. I know what the Senator is saying but the actual obligations and rules

imposed on the person responsible for safety on the ship fall to be discharged by the master of the ship.

Question put and agreed to.

Sections 3 to 6, inclusive, agreed to.

SECTION 7

Question proposed: "That section 7 stand part of the Bill."

Senator Paschal Donohoe: I have a question for the Minister of State which goes back to the point on definitions already discussed. Why is reference made in section 7(2) to "passenger steamers" while in section 5 the reference is to "ships"? This concerns consistency. The term "passenger steamers" is used up to a point but in section 7 the term used is "ships".

Deputy Peter Power: As I understand this matter of construction rules, the ships mentioned in other sections of the Bill to which the Senator refers are not passenger ships whereas section 7 provides that, "In making construction rules the Minister may categorise passenger steamers into different classes where appropriate", having regard to various conditions. However, the other vessels to which the Senator refers are not passenger ships. That is my understanding.

Senator Paschal Donohoe: The Minister of State is correct. There are references in other parts of the Bill to different kinds of vessels. My point, however, is that within this section one part categorises passenger steamers into different classes while in another part that takes account of additional requirements for vessels they are no longer passenger steamers but become ships.

Subsection (2) states that the Minister may categorise passenger steamers into different classes and lays down what are those classes. Subsection (5) states that construction rules may require the provision in ships to which this section applies. My interest lies in having everything harmonised. Within the same section a vessel is classed as a "passenger steamer" in one part and as a "ship" in another. I am always given to understand that as we go through legislation if we have harmony unforeseen consequences or challenges can be avoided. I am happy to stop making this point if it is not a substantive one or if there is an explanation that might clear up the issue. However, it appears the same object is referred to in two different ways in the same section of the Bill.

Deputy Peter Power: Perhaps if I read the explanatory note on the section it might become clearer to both the Senator and me. Section 7 provides the Minister with power to make construction rules prescribing the requirements for the hull, superstructure, sub-division and stability, electrical installations, equipment and machinery of, and fuel use in passenger steamers. This term passenger steamers refers to passenger ships, namely, carriers of more than 12 passengers and to arrange passenger ships into different classes for the purpose of making construction rules having regard to their size, shape, speed or configuration, the services in which they are employed to the nature and duration of the voyage and the number of persons carried. The section applies to passenger steamers registered in the State or other passenger steamers while in the territorial seas or elsewhere in the State. It is made clear that the Minister may prescribe the extent, manner and frequency in which passenger steamers may be surveyed.

This section amends the 1952 Act. I refer the Senator to section 7(1) where it states the Act of 1952 is amended, substituting a new section in that Act. The purpose of this provision is to

[Deputy Peter Power.]

avoid confusion as regards use of the different terms and to make it clear that the references to passenger steamer that are contained throughout the construction rules in section 10 of the 1952 Act, which is being substituted by section 7 of this Bill, includes “passenger ship”. This does not apply where the term “steamer” is used in subsection (1)(b) in respect of survey requirements. The reason for this exclusion is that the Merchant Shipping Act 1992 already provides for survey of passenger ships.

I do not know whether that makes the matter clear for the House. This section amends the 1952 Act and is separate from other sections of the Bill.

Question put and agreed to.

Sections 8 to 12, inclusive, agreed to.

SECTION 13

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

Senator Paschal Donohoe: I have a question on the drafting of section 13(1). I read the section a dozen times today to ensure I got its gist and am still not sure about it. If I am misreading the subsection, I am sure the Minister of State will correct me, but from my reading of it, there appears to be a word missing from it. Section 13(1) reads:

The Minister may, in any case where following a survey under the Merchant Shipping Acts or under radio rules or cargo ship construction and survey rules a safety equipment certificate, a radio certificate...

Should a verb not be inserted in the subsection to the effect that the Minister may, in any case, perform an action in requesting a safety equipment certificate, a radio certificate and a cargo ship safety certificate? Should the wording indicate that the Minister may request such a certificate or for one to be drawn up, or is this provided for elsewhere in the subsection?

Deputy Peter Power: Section 13(1) reads:

The Minister may, in any case where following a survey under the Merchant Shipping Acts or under radio rules or cargo ship construction and survey rules a safety equipment certificate, a radio certificate and a cargo ship safety construction certificate each fall to be issued by him or her in respect of a cargo ship (within the meaning of section 3 of the Act of 1966), at the request of the owner of the ship issue a composite certificate (“cargo ship safety certificate”) in respect of the ship in relation to those certificates and in lieu of issuing separate certificates.

“Issue” is the relevant verb.

Senator Paschal Donohoe: That is fine.

Question put and agreed to.

Sections 14 to 17, inclusive, agreed to.

SECTION 18

Senator Paschal Donohoe: I move amendment No. 1:

In page 27, subsection (3), between lines 16 and 17, to insert the following:

“(e) consideration to be taken of local, economical and fleet size,”.

This amendment is similar to one tabled by my colleagues in the Dáil who asked whether a dispensation would be allowed in the application of the rules, if the vehicle or service in question was so small that complying with this provision would result in those providing the service incurring a large cost. On checking the record of the Dáil, I noted that the Minister had said there would be an opportunity for representations to be made or discretion to be used in this regard. I would like him to clarify if judgment will be exercised in meeting these requirements in circumstances where the services in question are of such a small size that it would appear not to be the smartest action to impose the requirements.

Minister for Transport (Deputy Noel Dempsey): The amendment proposes the insertion of a new paragraph in section 18(3). The section deals with the making of chemical tanker rules. Specifically, it sets out the matters to which the Minister for Transport may have regard in respect of the categorisation of ships into different classes when making chemical tanker rules. The subsection relates to rules under SOLAS with regard to chemical tankers on international journeys. Therefore, the inclusion of local, economical and fleet size criteria, as proposed in the amendment, would not be relevant in this context.

Senator Paschal Donohoe: I accept the Minister’s point. When tabling the amendment, my intention was to make a more general point, rather than focusing on chemical tanker rules.

Amendment, by leave, withdrawn.

Section 18 agreed to.

Section 19 agreed to.

SECTION 20

Question proposed: “That section 20 stand part of the Bill.”

Senator Paschal Donohoe: Section 20(5)(b) provides that if an Irish ship encounters a difficulty and has to be brought to a port in another state, the owner or master of the ship will be compelled to inform the relevant authorities of the position on the ship’s certificate of fitness. Should the owner or master of the ship also be obliged to inform the chief surveyor of ships in Ireland, as well as the local authorities in the foreign port? Therefore, where an incident occurs in another jurisdiction involving an Irish ship which will be regulated under the Bill, the Department of Transport would be informed of it. If something occurs in another jurisdiction in breach of this legislation, at what point will the owner or master of the ship be compelled to inform the Department of the incident? If the owner or master of the ship inform the authorities where the incident occurs only, will he or she be in compliance with this provision?

Deputy Noel Dempsey: The Senator has raised an important point which I am delighted to clarify for him. Subsection (5) puts a statutory onus on the owner or master of an Irish ship to report to the chief surveyor — this refers to the Department of Transport — if an accident occurs or a defect is discovered — I presume this is the point to which the Senator was referring — particularly if it affects the safety and efficiency or completeness of its life saving appliances or other equipment required in this case by the chemical tanker rules. If the ship is abroad in a port to which the safety convention applies, the owner or master must also report to the appropriate authorities of the government of that state. The subsection provides for a dual obligation in this respect.

Senator Paschal Donohoe: Therefore, the owner or master of the ship must report to the authorities in both states.

Question put and agreed to.

Section 21 to 26, inclusive, agreed to.

SECTION 27

Question proposed: “That section 27 stand part of the Bill.”

Senator Paschal Donohoe: This section deals with liquefied gas carriage rules, while a later section deals with the nuclear waste carriage rules. The requirements set out in the section are specific in terms of electrical installations, tank vent systems and so on. However, a phrase not included in the section which is included in other parts of the Bill and other legislation for which the Minister is responsible, that is, “or another matter that the Minister might deem appropriate”. When having this discussion on other Bills and if I put in a specific point that the Minister should consider something in respect of regulation, the Minister or one of his representatives normally come back and say that he does not want to get too specific in case his hands are tied. That kind of welcome ambiguity is absent from this section. Perhaps sections such as these would be improved if the Minister still had scope to say that these are the areas in which he wants regulation implemented and then obeyed. This is especially the case given that we are talking about the transport of liquified gas. New events and new difficulties are always uncovered that might mean that some new regulation or safety procedure is merited in future.

Deputy Noel Dempsey: I do not remember whether the section contains that phrase, but I will take the Senator’s word for it. The Senator is correct on this. I have often put forward the argument that making legislation too specific can sometimes tie us up at a later stage and give “outs” to people. However, the extent of the detail in this chapter is such that everything is covered that needs to be covered. It is based on the international SOLAS convention and there is no necessity for having any other matters included in it at this stage. I will have a look at it again just in case we need to apply it later on, but most of the rules in this area are well covered.

There is sufficient scope in drafting various regulations in the sections. Looking at section 28 and other sections, there are regulations that must be drawn up and we can use them to cover anything that may arise that is not specifically covered in the detail of the section.

Senator Paschal Donohoe: That is fair enough. Under section 27(3)(f), the capacity is there for the Minister of the day to consider any other matters he thinks are appropriate in the circumstances, yet the same capacity is not in place in the earlier part of the Bill. I take the Minister’s point that the list may be exhaustive, but given that we are continuously learning about how we can deal with matters like safety, having a degree of additional autonomy on the requirements would be a good idea. That said, I will not press this as I do not want to slow things down.

Question put and agreed to.

Sections 28 to 40, inclusive, agreed to.

SECTION 41

Question proposed: “That Section 41 stand part of the Bill.”

Senator Paschal Donohoe: This section is about nuclear carriage rules, which is a serious matter. It lays out the different fines for which offenders under the section are liable. The fines are similar to fines in other parts of the Bill, which on summary conviction, represent a fine not exceeding €5,000, or a fine not exceeding €100,000 on conviction on indictment. If we find out that somebody is in breach of the regulations in our jurisdiction in respect of the transfer of nuclear material, then that is extremely serious. Is there a case for stronger fines here than in other parts of the Bill? Might there also be a case for imprisonment for the offences in this section? If there was a nuclear waste incident on one of our ships, we would not be happy to find that the greatest deterrent to deal with the person responsible was a fine.

Deputy Noel Dempsey: I take the Senator's point, but we are providing here that the owner or master of the ship commits an offence if he fails to comply with the duties imposed on him, and then is liable for the €5,000 or the €100,000 fine. The duties consist of the duty to ensure that the ship complies with the nuclear carriage rules, the duty to have the ship surveyed as and when required, and the requirement not to go to sea with nuclear cargo without having the international certificate of fitness enforced. The ship may be regarded as unsafe under section 66, with which it is required to comply.

If something goes wrong, there is a host of other legislative provisions, not least environmental protection legislation, which can ensure that such events will never happen and which provide for imprisonment. The offences we are talking about here are consistent throughout the Bill, as are the fines. The size of the fine is a matter for the courts. The offences are related to a failure to comply with the duties I outlined, and the fines have to be proportionate, which is the advice we get regularly from the Office of the Attorney General. These fines are proportionate and they are consistent with other fines across the Bill.

Senator Paschal Donohoe: The part of the Minister's response that interested me was about the other legislation that could kick in if some terrible incident was to take place. I am trying to figure out whether the consistency of fining is appropriate when we are dealing with something like nuclear carriage rules. A part of the Bill states that if a person does not have a safe manning document available, the fines to be faced are €5,000 or €100,000. It appears the offence of not complying with the nuclear carriage rules is on an entirely different level from that of not having a manning document available for a vessel. If the Minister is stating other legislation will create additional penalties, perhaps that might deal with the issue.

Question put and agreed to.

Sections 42 to 59, inclusive, agreed to.

SECTION 60

Question proposed: "That section 60 stand part of the Bill."

Senator Paschal Donohoe: The section compels the master and owner of a ship to have the safe manning document available. Where will the document be kept? I understand from my reading of the Bill that it will be kept on the vessel. Is there is a provision to ensure a duplicate will be kept by the surveyor of the ship or the Department of Transport?

Deputy Noel Dempsey: The reason it must be visible on the ship is to ensure compliance. There is provision only for a copy to be kept on the ship. The Senator has raised an interesting point. I do not want to amend or delay the Bill, but perhaps the regulations can provide for the keeping of a copy. I can see the point the Senator is making. We are complying with

[Deputy Noel Dempsey.]

international regulations and standards. I am thinking on my feet. If somebody makes a complaint——

Senator Paschal Donohoe: How does one check the document?

Deputy Noel Dempsey: Obviously, the person on board the vessel can view the document and see, for example, that there should be a crew of ten. I will ask my officials to raise at international level the point that there should be an obligation on state authorities to keep a copy in their files for cross-checking purposes.

Senator Paschal Donohoe: It would be worth considering. There will be a document on the vessel, but from my reading of the Bill there is no requirement for a duplicate to be stored centrally. Section 60(2) states the Minister may require an applicant to amend a proposal for a safe manning level on a ship. However, if one does not have a copy of the original document, how will one know whether the amendment was made?

Deputy Noel Dempsey: The reason the document is kept on the vessel is to enable someone at a foreign port to board and check it. I will examine this issue. It may not need legislation. I will examine whether one should ask for a copy on a non-statutory basis. We have much information on various vessels and perhaps we should include this document. A case can be made for the home state to have a copy in order that when a vessel is inspected at a foreign port, if there is a doubt about whether the document has been altered or is authentic, the authorities can check with the home port. We will pursue this point.

Question put and agreed to.

Sections 61 to 70, inclusive, agreed to.

SECTION 71

Question proposed: “That section 71 stand part of the Bill.”

Senator Paschal Donohoe: Section 46(4)(a) makes reference to reporting a matter “to the Chief Surveyor or any other surveyor of ships in the Marine Survey Office, Department of Transport”. The section of the Bill dealing with authorised persons does not make reference to a chief surveyor; it reverts to a “surveyor of ships”, as do various other parts of the Bill. However, earlier sections do refer to a “Chief Surveyor”. Is the definition of “authorised persons” elastic enough to include a chief surveyor?

Deputy Noel Dempsey: An authorised person can include a person other than the chief surveyor. Section 71(1) provides that a surveyor of ships is an authorised person for the purposes of Part 4 of the Bill. It provides the Minister with the power to appoint authorised persons. It does not have to be a chief surveyor, but he or she will be among the authorised persons. It also provides for the revocation of appointments. The authorised person must receive a warrant of appointment from the Minister. The broader definition of “authorised persons” covers everybody necessary.

Question put and agreed to.

Sections 72 to 86, inclusive, agreed to.

NEW SECTION

Senator Paschal Donohoe: I move amendment No. 2:

In page 82, before section 87, but in Part 6, to insert the following new section:

87.—(1) A person shall not pilot or attempt to pilot a mechanically propelled vessel while he or she is under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vessel.

(2) A person shall not pilot or attempt to pilot a mechanically propelled vessel while there is present in his or her body a quantity of alcohol such that, within 3 hours after so piloting or attempting to pilot, the concentration of alcohol in his or her blood will exceed a concentration of 50 milligrammes of alcohol per 100 millilitres of blood.

(3) A person shall not pilot or attempt to pilot a mechanically propelled vessel while there is present in his or her body a quantity of alcohol such that, within 3 hours after so piloting or attempting to pilot, the concentration of alcohol in his or her urine will exceed a concentration of 67 milligrammes of alcohol per 100 millilitres of urine.

(4) A person shall not pilot or attempt to pilot a mechanically propelled vessel while there is present in his or her body a quantity of alcohol such that, within 3 hours after so piloting or attempting to pilot, the concentration of alcohol in his or her breath will exceed a concentration of 22 microgrammes of alcohol per 100 millilitres of breath.

(5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

My colleagues raised the issue of tabling an amendment on the use of alcohol at sea in the other House. I have the response of the Minister and will not go through the entire argument again because I saw what he said elsewhere. The gist of his argument was that he would prefer to see this being part of an internationally co-ordinated response and that a diplomatic conference was taking place in Manila in June 2010 and that he hoped to see the endorsement of some kind of co-ordinated response which would allow the issue to be moved forward.

In the absence of my amendment being accepted, since this was discussed in the Dáil are there signs from the conference, if it has already taken place, that there will be a co-ordinated response to deal with this issue? As the Minister recognised elsewhere, this is a serious point which we should find some way of dealing with.

Deputy Noel Dempsey: That conference is taking place in Manila this week, but we do not have any report back from it.

Senator Paschal Donohoe: Are we represented?

Deputy Noel Dempsey: Yes. Unfortunately I could not be there. They are moving in the direction the Deputy advocates in this. I support this, but we cannot report progress on it just yet.

Amendment, by leave, withdrawn.

Section 87 agreed to.

Sections 88 to 93, inclusive, agreed to.

Title agreed to.

Bill reported without amendments, received for final consideration and passed.

Sitting suspended at 4.25 p.m. and resumed at 5 p.m.

Environmental Protection: Motion

Senator Dominic Hannigan: I move:

That Seanad Éireann calls on the Government to institute sufficient measures to ensure that the Irish environment is adequately protected and enhanced, particularly in relation to:

- the early enactment of climate change legislation promised by the Government but not yet delivered;
- the quality of our rivers and our water supply;
- the maintenance and improvement of our public beaches; and
- remedial measures to address hazardous waste sites, including at Haulbowline, County Cork.

I welcome the Minister for the Environment, Heritage and Local Government. I note the Government has tabled an amendment to our motion which broadly welcomes the progress it claims to have made. However, we cannot accept the amendment for the reasons that I will outline presently.

Our environment is one of our most precious assets. Whenever people speak about why they like to live here they describe the wonderful scenery, the beauty of our countryside and the quality of our air. One of our biggest industries is tourism. Research into why people come here and keep returning suggests that it is because of the quality of our environment.

Like the environment in other countries, however, our environment is under threat from a number of sources. In the course of this debate my colleagues and I will discuss some of the reasons for this threat. Senator Bacik will outline how climate change is impacting on our environment and why the failure of the Government to enact legislation is making it difficult to ensure our country is adequately protected from climate change. Senator Ryan will speak about water and beach quality in Ireland, focusing on north County Dublin and Fingal. Our spokesperson on the marine, Senator McCarthy, will speak about the protection of our coast and islands and the problem of hazardous waste sites such as Haulbowline, County Cork. I do not doubt the Minister will respond that he is doing his part and that the programme for Government will deal with the challenges ahead. We do not accept this contention for several reasons.

Nearly three years ago Senator Bacik published the Climate Protection Bill 2007, No. 13 on today's Order Paper. The Labour Party also published a similar Bill in the other House but there has been no action from the Government on this issue, despite repeated promises from the Minister and his colleagues in this House, including Senator Boyle. Last year I attended the climate change summit in Copenhagen. When I asked people what their governments were doing to combat the impact of climate change, I was embarrassed that our Government had failed to act. I left Copenhagen disappointed, like many others, at the inaction on the part of the world's governments.

The amendment advises us that the Government intends to publish the heads of a climate change Bill. Given that such a Bill has been repeatedly promised in the past three years, I do

not know if this is sufficient guarantee that we will see legislation this side of the summer recess. Like the legislation for a mayor of Dublin, perhaps Senator Boyle wants the measure but has failed to convince his Government partners. This is an area where Ireland could have led the way but all we have seen is inaction even though Senator Boyle's party is in government. A perfectly good Bill sits on the Order Paper but rather than agree to introduce it, the Government chose to wait for more greenhouse gases to be released and for climate change to get worse. All that has been produced by this Government in regard to climate change is hot air.

We have seen further inaction in the area of beach management and coastal erosion. I am lucky to come from the east coast of the country, which is blessed with fine beaches such as Mornington, Bettystown, Stamullen and Gormanston. I play pitch and putt at Laytown Pitch and Putt Club which is clearly suffering the effects of climate change and the increasing incidence of severe storms. Unfortunately, the Government's failure to introduce legislation on climate change is accompanied by the absence of a strategy to mitigate the impact of coastal erosion. The policy seems to be to let it happen even if people lose their businesses or their homes. This is unacceptable and the Minister knows he and his party will be held to account for their inaction.

There is further inaction in regard to the management of our beaches and the achievement of blue flag status. This is a voluntary eco-label awarded to thousands of beaches in 40 countries across Europe and the world. The Blue Flag Programme contributes to sustainable development of beaches with strict criteria for water quality and environmental management. As someone who uses the beaches of Gormanstown and Bettystown on a regular basis, I can see the need for additional funds if our beaches are to achieve and maintain blue flag status. We cannot expect local authorities to find the resources for this without support from central government which, after all, benefits from VAT and general tax revenue. It is up to central government to ensure local authorities have the resources required to ensure beaches are properly managed and tourists are attracted to the relevant areas as a result.

This applies equally to water quality and supply. Last week, while canvassing in the village of Stamullen in County Meath, I met a man who was at his wits' end as a result of regular outages of water supply, poor quality water and low water pressure. These problems have arisen because the Government is not taking sufficient measures to ensure an adequate water supply to our towns and villages. The problem is particularly acute in areas with growing populations. Measures must be taken to ensure water pressure and quality are adequate in these areas.

Measures are also required to address the issue of sites contaminated by hazardous waste. Senator McCarthy will speak in detail on this issue and I suspect Senator Boyle will also have a contribution to make on it, particularly on the issue of Haulbowline in County Cork where many residents are concerned about the level of hazardous waste. Fears were raised after a subcontractor involved in surface clearance at the Haulbowline site had claimed to have uncovered levels of a toxin, chromium six, which is said to come from the former Irish ISPAT steel plant at the site.

Senator Dan Boyle: "Claimed" is the operative word.

Senator Dominic Hannigan: The Senator will have an opportunity to speak to the motion. The chemical in question, also known as hexavalent chromium, causes cancer and is the same material against which US activist, Erin Brockovich, campaigned. For more than 60 years steel production on the Haulbowline site turned this small island in Cork Harbour into one of the most dangerous dumps in the country.

[Senator Dominic Hannigan.]

The Minister has indicated that he has been assured by his Department that people will not be exposed to health risks from hazardous waste in the area. He also met local residents to assure them of his commitment to assist them. I visited the site in the summer of 2008 and spent an evening attending a service in the church on the island and partaking of refreshments, before touring Haulbowline. During my visit I spoke to many local residents of Cobh, Crosshaven and other areas close to the island. The people of this part of County Cork want a baseline study carried out to identify exactly what health risks are posed by the island's hazardous waste. Despite the presence of the Green Party leader and Minister, Deputy Gormley, and the party chairman, Senator Boyle, action has not been taken in this matter. I understand the Minister approached the Minister for Health and Children, but she is not agreeable to having a baseline study carried out. I ask the Minister to clarify the position.

In summary, on a range of measures related to environmental protection and enhancement, including waste management, water quality, coastal erosion and climate change protection, the Government has failed to act. Despite assurances to the contrary and promises to address these matters, the record of the Government in general and the Green Party, in particular, speaks for itself. The Government has failed to deliver on environmental issues.

Senator Ivana Bacik: I welcome the Minister. It gives me great pleasure to second the motion. As Senator Hannigan stated, it addresses a number of environmental protection issues on which the Government has failed to deliver. This is a source of grave disappointment, particularly as the Green Party is in government. I note Senator Boyle is making a rueful face.

Senator Dan Boyle: It is all very amusing. I am sure the Senator is disappointed.

Senator Ivana Bacik: I have always considered myself to be close to the Green Party. I am a red-green in the great tradition of many of the Green Party members in Germany, for example. The idea of a socialist-green alliance is a good one which makes sense on an ideological basis. It is very disappointing that the Green Party in government has failed to deliver in many areas of environmental protection. It is appropriate, therefore, that the Labour Party is holding the Government to account on this issue.

The Labour Party would like the Minister to provide answers beyond the somewhat cursory response provided in the amendment. We would like him to indicate what he intends to do on the specific issues we have identified and on which the Government has failed to deliver. These include the early enactment of climate change legislation, the quality of our rivers and water supply, the state of public beaches and hazardous waste sites.

The issue on which I will focus is climate change legislation. When will we see a climate change Bill? I note the amendment again promises — this is becoming tedious — that the heads of a Bill will shortly be published. Senator Hannigan referred to the timeline in this matter. When one examines the history of the promises made on climate change legislation, one sees just how poorly the Government is delivering on this commitment. There is political consensus across all parties and among the Independents on the need for climate change legislation which sets binding targets for carbon emission reductions for this and future Governments. There is clear agreement on this matter. As long ago as 2004, when Friends of the Earth launched in this country, we set the introduction of such legislation as a major priority. I declare my interest as a board member of Friends of the Earth Ireland.

In 2007 Friends of the Earth, with a range of other non-governmental organisations, launched the “Stop Climate Chaos” coalition which had, as its primary focus, the need for legislation on climate change. In October 2007 in this House I introduced the Climate Protection Bill 2007,

the first climate legislation to be introduced in either House. The aim of the Bill was to set targets for reductions in emissions and it set a target of achieving a 3% reduction in each year from 2010 to 2050. At the time 2010 appeared sufficiently distant to enable us to introduce preparatory steps in advance. The aim was to have a 60% reduction on 1990 baseline levels by 2050, a target that was in line with Kyoto Protocol targets. The Bill placed duties on the Minister for the Environment, Heritage and Local Government to produce an annual report to ensure these reduction targets were met and provided for a vote of no confidence in the Minister where he or she failed to deliver. At that point, the Bill was not voted down and has remained on the Order Paper for nearly three years on the basis that we will see the heads of a Government Bill which will do more or less the same as my Bill proposes.

In 2009 Deputy McManus introduced in the other House a climate change Bill on behalf of the Labour Party. That legislation would set somewhat more ambitious targets of 80% reductions in carbon emissions by 2050 and 30% by 2020. It would place firm duties on the Taoiseach to deliver the required reductions and report regularly to the Oireachtas and proposes the establishment of an independent climate change commission. Activity increased subsequent to the introduction of Deputy McManus's Bill. In October last year the Joint Committee on Climate Change and Energy Security published a comprehensive report on the case for climate change law and again produced the heads of a draft Bill which draws on best practice in other jurisdictions and would provide for binding targets over a number of years, as well as the establishment of an independent commission.

The environmental pillar of the social partners called for the introduction of climate change legislation and made a strong case in a document it published this week which I am sure the Minister has read and which argues that Irish legislation should follow the Scottish example of inscribing an ambitious reductions target for national emissions of at least 40% by 2020 using 1990 as the baseline level. The pillar has given us a clear framework for the legislation which it argues is essential. It states the 3% annual reduction target until 2020 is dangerously weak, that the legislation must have a binding 2020 target and that Ireland is responsible for an extremely high level of emissions. It also highlights our obligations to developing countries, an issue to which I will return.

Despite the consensus achieved, the high level of activity in this area and the various drafts of climate change legislation produced, we have still not seen the promised heads of a Bill from the Government. Not only is there agreement on the need for legislation but consensus has also been achieved on its content. The legislation must set targets, including targets for 2020 and 2050. Two weeks ago the Stop Climate Chaos coalition argued for a 95% reductions target for 2050 and a 40% reductions target by 2020. While there are some differences in the various drafts of a Bill as to what should be the targets, there is a clear consensus on the need to set targets for 2020 and 2050. There is also consensus on the need for an independent commission on climate change which would monitor and assess our progress in addressing climate change and provide advice for the Government and public bodies on how best to achieve the targets set.

The need for political accountability is another aspect on which there is agreement. Perhaps my suggestion two and a half years ago for a vote of no confidence was a somewhat radical one, but there is certainly other ways in which political accountability can be ensured, for example, through placing the duty to meet targets firmly on the shoulders of the Taoiseach as our 2009 Bill does and as the Oireachtas committee has argued.

There is consensus that this is not just a matter of domestic concern because Ireland's excessive emissions have a direct and ongoing effect most strongly on developing countries, much more strongly than on developed countries. Again that is widely recognised. Stop Climate

[Senator Ivana Bacik.]

Chaos has called for the Government to ensure it provides finance for developing countries to deal with climate change. This funding should not be taken from the overseas development aid commitment to reach 0.7% of national income. We must recognise our obligations on a global level as well as our national obligations to reduce our emissions. There is widespread consensus on the content of the Bill and the need for a Bill. There is growing international pressure and we know we have obligations not only to our fellow developed countries but also to developing countries. The European Union is pressing us to do this; it has been done in other countries.

Why has such consensus emerged? Legislation is seen as vital because this is a matter that is too important for political promises. Statutory commitments must be enshrined in law in order to bind not only the current Government but also future Governments. Legislation expresses all-party agreement in the best way. Nobody is opposed to the principles of the Bill. There may be some disagreement as to how ambitious the targets should be, but there is public consensus that targets must be set. Based on the Kyoto agreement we are obliged to meet our targets. The political commitments we gave in the Kyoto Protocol were simply not met and political promises on matters such as hospital waiting lists and school building are broken all too often. We know that political commitments alone are not enough. Other countries have already passed climate change legislation, notably our nearest neighbour, Britain, which passed legislation containing binding targets. The sky has not fallen in, but the sky may well fall in if we do not meet these targets because we all know the terrible consequences of global warming if we allow it to continue at its current rate.

In 2005 Fianna Fáil was described by a certain Deputy as “a huddle of gangsters spending taxpayers’ money in a carbon casino, plotting the most conniving scams to dodge even the woefully inadequate Kyoto targets”. The speaker, of course, was the Minister’s colleague, Deputy Sargent, speaking in the Dáil. Judging by what has happened since, relationships between Fianna Fáil and the Green Party have improved, of course. However, we need to ensure the Green Party and Fianna Fáil are held to account and that we are not simply spending money in a carbon casino by offsetting and not meeting targets. The best way to ensure we meet our targets is through binding legislation.

Senator Camillus Glynn: I move amendment No. 1:

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

“welcomes:

- the progress made to date across a broad range of Government policies and programmes which serve to enhance significantly the protections afforded to the Irish environment;
- the intention to publish, shortly, the Heads of the Climate Change Bill 2010, which will provide a statutory framework for the core national priority of major and continued reduction in greenhouse gas emissions in the context of transition to a low carbon economy;
- the suite of legislation introduced since 2007 to protect and improve water quality including giving statutory effect to the Water Framework Directive and the Bathing Water Directive; establishing an authorisation system for waste water treatment plant discharges; regulating for best practice in the management of nutrients in the agricultural sector; and supporting the enforcement of strengthened regulations governing the supply of drinking water;

- the adoption of the first cycle of River Basin Management Plans to protect and improve water quality on a river basin district basis;
- the Water Services Investment Programme 2010-2012 supported by funding of over €500 million for 2010, building on similar levels of investment in recent years and reflecting environmental priorities identified on a River Basin Management Plan basis;
- the continuing funding commitments to the EPA and local authorities towards the costs associated with environmental enforcement related activities;
- the progress made to date in dealing with industrial legacy sites in a manner consistent with good practice and minimisation of risk to human health and the environment; and
- the continued commitment to achieving the full delivery of those commitments in the renewed Programme for Government designed to support the objective of ensuring a high quality, robustly protected Irish environment.”.

Cuirim fáilte roimh an Aire. I reserve my right to speak later.

Minister for the Environment, Heritage and Local Government (Deputy John Gormley): I welcome the opportunity to support the Government amendment and to set out for Members the work the Government consisting of Fianna Fáil and the Green Party has been advancing across a broad spectrum of issues to enhance and protect the environment.

A healthy environment is a prerequisite for a healthy society and economy. My party has had this viewpoint as a core value from the outset and has ensured that it is at the heart of Government policy. The protection of our environment is about more than Government policy. It is truly a collective, shared responsibility, which requires a significant degree of consensus if we are to achieve progress on the different issues and challenges that face us as a society. That type of collective approach has underpinned policy across a broad spectrum for several years. We are making substantial progress but we are not and cannot afford to be complacent because formidable challenges remain. Determination, targeted resources and well focused policy tools, supported by a strong commitment from all the stakeholders involved, are needed to maintain the momentum we have built.

Climate change is the biggest challenge facing humankind and Government policy is set out in the national climate change strategy. Ireland will meet its target for the purposes of the Kyoto Protocol through a series of national measures to reduce greenhouse gas emissions, supplemented as necessary by the purchase of carbon units on the international market. Since 2007 when we entered government, we have introduced a series of fundamental measures aimed at transforming Ireland into a low-carbon economy and society. This transformation will take time, but it will make Ireland a healthier place and it will make our economy stronger, more competitive and more resilient to economic shocks from the outside.

The comprehensive measures introduced by the Green Party on climate change and renewable energy include a carbon levy, money from which has been used to fund renewable energy projects and reductions in employer taxes; a reform of our motor taxation system, saving car buyers in excess of €5,000 on fuel efficient cars, resulting in more than three quarters of new cars bought being low-emission cars; in excess of €100 million being spent on grant aid for people to insulate their homes; a set of energy policies which mean we are ahead of target in our aim to have 40% of our electricity from renewable sources by 2020; tax breaks for compan-

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ies who buy energy efficient equipment; and tax breaks and incentives for research and development into new green technologies.

I listened to Senator Hannigan talking about the Copenhagen summit. If he were to listen to the people who spoke in Copenhagen and if he spoke to the NGOs, he would know that Ireland is seen as highly progressive on climate change. Many countries have not succeeded in introducing a carbon levy. It was abandoned by France which did not have the political courage to proceed. I say to Senator Bacik that I find it very difficult to stomach having to listen to this sort of rhetoric coming out and yet at the same time I look at leaflets from my constituency colleague, Deputy Quinn, having a go at me for introducing a carbon levy. I find that sort of speaking out of both sides of one's mouth totally and utterly reprehensible.

Senator Niall Ó Brocháin: Hot air.

Deputy John Gormley: I speak as someone who has in the past given the Labour Party my second preference vote. I am very sympathetic to some of the social justice issues it has espoused in the past. I hear this progressive rhetoric, but I do not see it backed up by any action. I would have thought the Labour Party would have had some feeling for animal welfare issues, yet last week its Senators voted with Fine Gael on amendments which are totally retrograde. I do not know how they could have done such a thing.

Senator Paudie Coffey: What is the Minister talking about? He will introduce the same amendments in the Dáil — he has been forced to do so by his Fianna Fáil colleagues.

An Leas-Chathaoirleach: The Minister to continue without interruption.

Senator Paudie Coffey: If the Minister goes into that area, he will get his answers.

Deputy John Gormley: Senator Bacik spoke blithely about the environmental pillar. From where did the environmental pillar come? We introduced it. For the very first time we have an environmental pillar as part of social partnership, which will be a very progressive move. I hope it is not removed if ever the Labour Party gets the opportunity to be in government.

Senator Camillus Glynn: Hear. Hear.

Deputy John Gormley: I fear that some of the progressive moves we have made in Government will be repealed based on signals we are getting from some quarters in the Opposition.

Similarly funding for NGOs has been tripled. We have gone out of our way to assist environmental NGOs. We believe there is a place for debate. If there is a critique that we should be doing more, that is fine because we will step up to the plate and will do more on all these issues. Senator Bacik spoke about the Climate Change Bill 2009. As a lawyer, Senator Bacik will appreciate this. We have now got agreement from an international group of lawyers known as ClientEarth. That group approached the Green Party in Ireland because it was assisting the Australian Government which was about to introduce a climate change Bill but bottled it basically because of a climate change-sceptic Opposition.

Senator Dan Boyle: It was a Labour Party Government.

Deputy John Gormley: Prime Minister Rudd indicated he could not go ahead with it, in the same fashion as French President Sarkozy.

Senator Ivana Bacik: We cannot be blamed for the actions of the Labour Party in Australia. It is pushing it to blame me for leaflets I have not seen.

Senator Niall Ó Brolcháin: Why not? The Senator has no problem blaming us for the actions of the Greens elsewhere in Europe.

Deputy John Gormley: It is very impressed with the legislation we are putting forward and it is seen as extremely innovative. There is a belief it will serve as a template for environmental legislation elsewhere, a fact in which I take great pride. We also aim to enshrine those climate change targets about which the Senator has spoken into the planned climate change Bill, the heads of which I intend to publish shortly. To say that this can be done easily is to underestimate that challenge. It is not easy.

I forgot to say that the Oireachtas committee we set up has been used as a talking shop as a means to give adversarial comment and to knock the Government. That is not what it was set up for, which was to get a political consensus. I am very disappointed in this.

We are proceeding with the climate change Bill 2010, a comprehensive legislation which we hope will reduce our greenhouse gas emissions in the context of a transition to a low carbon economy. As Senators know, the framework for the Bill was published last December and work has since been progressing on the heads of the Bill and the preparation of a framework for climate change adaptation.

We face enormous challenges in this area. The latest data from the Environmental Protection Agency, EPA, which is responsible for greenhouse gas emission projections, show the distance to target in the Kyoto Protocol commitment period 2008 — 2012 at 2.5 million tonnes of CO₂ per year, or 12.7 million tonnes for the five year period. This is significantly lower than the original expectation in the national climate change strategy published in April 2007. At the time it was estimated that up to 18 million credits would be required to ensure compliance over the five-year commitment period under the Kyoto Protocol at an estimated cost of €270 million.

As outlined in the EPA's most recent projections under the national allocation plan 2008-12, the EPA established a new entrant set-aside where allowances were set aside for new entrants coming into the EU emissions trading scheme and for the expansion of existing installations over the 2008-12 period. It is currently estimated that there will be around 5 million allowances remaining in the new entrant set-aside at the end of the Kyoto period which will be available for the State to use towards Kyoto Protocol compliance.

I want to move on swiftly as water quality was also mentioned. The facts speak for themselves, and there is no way if there was a Labour Party Government we would spend the record amount we have on water infrastructure. The high priority that this Government attaches to the protection and improvement of water quality is demonstrated in a number of key areas. These include the extensive suite of legislation introduced since 2007, the transposition and implementation of the Water Framework Directive and the substantial investments in the water services investment programme. Key legislative developments since 2007 include continued implementation of the water framework directive through the introduction of new standards for water quality in both groundwater and surface waters; new regulations to give legal effect to the bathing water directive; the establishment of an authorisation system for waste water treatment plant discharges; and regulating for best practice in the management of nutrients in the agricultural sector.

In addition, the enactment of the Water Services Act 2007 and the European Community (Drinking Water) Regulations 2007 was designed to bring about a better quality of drinking water through increased enforcement powers. Under the regulations, suppliers of drinking water are required to ensure the water supplied is wholesome and clean. The application of the provisions in these regulations was instrumental in fully addressing a judgment against Ireland by the European Court of Justice on drinking water quality.

[Deputy John Gormley.]

The EU water framework directive is a key initiative aimed at improving water quality throughout the European Union. First transposed in 2003, I introduced two significant new pieces of legislation in the past year to transpose further key aspects of the directive. These provide for new standards of water quality in both surface waters and groundwater. The first cycle of the river basin management plans is close to finalisation having been adopted in all 34 local authorities. The plans set out a programme of measures for the protection and improvement of water quality in seven regional districts based not on administrative boundaries but on natural catchments.

In March 2008 I introduced bathing water quality regulations which transposed the new bathing water directive. The new regulations give a stronger focus to the protection of human health. They also provide for the identification of beaches, the creation of beach profiles, the assessment of bathing water quality, the classification of beaches and the implementation of measures to ensure all beaches have a classification of at least sufficient by September 2015.

I also recently allocated €1.5 million over three years to support the maintenance and cleaning of key tourist sites during the peak season of May to September. However, it must be realised that the sustainable solution to maintaining our wonderful beaches rests fairly and squarely on the shoulders of the public that enjoys, but sometimes takes for granted, this wonderful part of our environment. This means bringing home any rubbish generated at the beaches and ensuring it is properly disposed of.

I also introduced new waste water discharge authorisation regulations in 2007. These regulations provide for the first time for the licensing of all discharges into the aquatic environment from local authority-owned sewage systems. Licensing of these systems by the EPA is well advanced with 89 licenses issued to date. In addition, revised good agricultural practice regulations were introduced in March 2009. These regulations provide for improved farmyard management and strengthened enforcement provisions. It is encouraging to note that the results from the EPA's national monitoring programme, published in February 2010, indicate that nitrate concentrations in rivers and lakes are relatively stable and levels in groundwater have begun to stabilise. The EPA is not recommending any additional measures to prevent and reduce water pollution from agricultural sources until results from ongoing studies into the efficacy of the existing measures to achieve the objectives of the good agricultural practice regulations are known.

The Department of the Environment, Heritage and Local Government has a provision of €508 million in its 2010 Estimate to fund the ongoing provision of water services infrastructure. This provision will mean that average spending on water services infrastructure throughout 2009 and 2010 will be up 3% on the 2008 outturn. It is a clear statement of the priority which the Government is giving to preserving and protecting our water resources as a key element of our environment, to meeting EU standards for drinking water and wastewater treatment and to providing critical infrastructure that will ensure ongoing support for economic development.

This level of investment in protecting and improving our water resources builds on similar levels of investment over many years. Compliance with the secondary treatment requirement of the EU urban wastewater treatment directive, which stood at 25% in 2000, is now at 92%. Some 480 water and wastewater schemes have been completed and there has been an increase in wastewater treatment capacity equivalent to the needs of a population of 3.7 million. The increase in drinking water treatment capacity is equivalent to the needs of a population of 1.1 million.

One can clearly see from the EPA's monitoring that we have seen an improvement in recent years in the quality of water in general and drinking water quality specifically. Despite what is

seen in the media and the spin sometimes put on the issue, the overall water quality in bathing areas has also improved by approximately 4%.

With regard to river basin districts, it is important to emphasise that this is the way we will present our reports. In the past they were presented in terms of geographical areas but it will now come about in terms of catchment areas. This is the best way forward and gives us a better understanding of how water resources must be protected in coming years. With the Green Party in government this has and will continue to be done.

Hazardous waste and legacy sites were also briefly mentioned in the motion and by Senator Hannigan. The issue of industrial legacy sites, which operated at a time when such industrial activities were less well regulated, is one which the Government takes extremely seriously. It is recognised that there are unique environmental concerns among the local authorities in some areas because of the activities that have previously been carried out on the sites concerned during the years. Inevitably, in the nature of these activities — such as steel making, mining, gas works, and so on — they generated, over a considerable period, large quantities of wastes, some of it hazardous, which now requires to be dealt with. The former Irish Steel-Irish ISPAT site in Cork is a case in point. Between 2003 and 2009, Cork County Council, acting as the agent of the Department of the Environment, Heritage and Local Government carried out a comprehensive site investigation to determine the levels of contamination at the site and the remediation-development options there. It initiated ongoing environmental monitoring at established monitoring points, decontaminated and demolished the steelworks buildings and arranged for a site surface clearance.

The Green Party has been in government for three years. Under my watch, more has been spent on environmental remediation at Haulbowline in a 12-month period than was spent in the previous 68-year history of the site. I also ordered a comprehensive risk assessment by consultants White Young Green and made public the contents of all previous studies undertaken at this site. That is a matter of record.

A previous Administration sold off the site in question for £1, without having any regard to the environmental consequences. It must be borne in mind that the worst pollution at Haulbowline occurred not on our watch — the Green Party has taken more action than any other in respect of the site — but on that of the Labour Party when it was last in government. That is a fact.

Senator Ivana Bacik: Neither Senator Hannigan nor I were responsible for that.

Senator Dan Boyle: I suppose the Labour Party was not in government at the time and did not make the deal.

An Leas-Chathaoirleach: The Minister to continue without interruption.

Senator Ivana Bacik: It was 13 years ago.

An Leas-Chathaoirleach: The Minister to continue without interruption

Senator Joe O'Toole: In fairness, the Minister is inviting interruption.

Deputy John Gormley: The site was sold for £1 and no environmental safeguards were put in place. That is shameful. Senator Hannigan referred to visiting the site and eating his sandwiches there.

Senator Dominic Hannigan: I did not mention sandwiches.

Deputy John Gormley: The Senator has many supporters down there and that is the way to do it. He criticised Fianna Fáil but I am afraid the Labour Party has learned quite a few lessons from that party in the context of how it does business

Senator Dominic Hannigan: The Minister should not refer to pots and kettles. I never thought I would live to see the day when he would compare the Labour Party to Fianna Fáil.

An Leas-Chathaoirleach: The Minister is inviting interruptions. He should, however, be allowed to continue, without interruption.

Senator Ivana Bacik: The Leas-Chathaoirleach is correct, the Minister is inviting interruptions.

Deputy John Gormley: In recent times I monitored how the Labour Party operates and I am aware that it does not commit in respect of anything. Water charges are fundamental if we are to have a good water infrastructure but the Labour Party does not appear to have a policy on them.

Senator Dominic Hannigan: We can send the Minister as many documents as he desires in that regard. We have outlined policies on many issues and we can engage in a debate on them any day of the week. We can stand over our policies——

Senator Dan Boyle: The Labour Party has plenty of reports.

Senator Dominic Hannigan: ——and our Senators do not come before the House to play the fool.

Senator Niall Ó Brocháin: What is the Labour Party's policy on water charges?

An Leas-Chathaoirleach: The Minister should be allowed to continue, without interruption.

Deputy John Gormley: The Senator will have ample opportunity later to outline his party's policies in detail.

Senator Dominic Hannigan: I have already contributed to the debate and cannot come in again.

Deputy John Gormley: In such circumstances the Deputy's colleague can contribute.

An Leas-Chathaoirleach: Senator Hannigan should desist.

Deputy John Gormley: Let us have some openness, transparency and honesty. Everybody wants to know the policies of the Labour Party.

Senator Dominic Hannigan: I will send the relevant documentation to the Minister. As stated, we have many policies and I hope the Minister will read our policy documents because he might learn something from them

An Leas-Chathaoirleach: Senator Hannigan has a right to reply to the debate at its conclusion.

Senator Dominic Hannigan: One of the documents the Minister can take on board immediately is the Labour Party's Climate Change Protection Bill.

Deputy John Gormley: The Senator was absent from the Chamber when I referred to that matter. Perhaps his colleague, Senator Bacik, will update him on what I said.

The steps to which I referred earlier brought the site at Haulbowline to a position where the Government decided that the Office of Public Works, OPW, would chair a working group to develop a structured and coherent approach to the further management and development of the site and to advise Government on options for its future use. The OPW working group is carrying out its mandate, with Cork County Council continuing to discharge site management responsibilities on an agency basis.

I have always been adamant that consultation with local communities is an absolutely essential element to a satisfactory resolution. Community health issues obviously do not come under my remit but I am acutely aware of the concerns about health in the lower harbour area. I am of the view that through the public consultation mechanism of the working group, there can and will be engagement with the local community to examine and explore these issues in detail. Consequent on a decision as to its future use, a detailed risk assessment of the entire site, with recommendations for the appropriate remediation required, can also be undertaken to facilitate such future use. When dealing with sites of this nature, it is crucial that rather than piecemeal action, which could inadvertently cause problems for the local community and the environment, a coherent overall approach should be taken to obtain the best possible results. That is the objective being pursued by the Government in this case. I reassure the House that the relevant Departments and agencies remain properly engaged in the management of such legacy sites in a manner which is consistent with good practice and minimisation of risk to human health and the environment.

On environmental enforcement, there are those who persist in acting illegally by dumping waste, polluting our air and our water and littering our beaches. Local authorities and the Office of Environmental Enforcement have been taking a very robust approach to such activity and must be commended for this. There can be no excuse for this type of behaviour and it will not be tolerated. The Government has committed €7.5 million per annum up until 2014 for the employment of enforcement officers by local authorities and is committed to providing further funding towards the costs associated with their deployment for enforcement related activities. To further underpin progress, I am establishing an action group to come forward with recommendations for further action to tackle the problem of rural and roadside littering. Ultimately, our success will be dependent on our capacity to act collectively and to ensure littering and other environmental vandalism, and the associated damage to our economy and our quality of life, are fully and comprehensively eradicated.

Senator Joe O'Toole: On a point of order, the Minister made a comment regarding the lack of consensus among those on the Joint Committee on Climate Change and Energy Security which Members on this side of the House did not hear. Would be mind expanding on that matter?

An Leas-Chathaoirleach: That is not a point of order.

Senator Joe O'Toole: I accept that. However, I could not think of any other way to intervene.

Deputy John Gormley: Once Senator O'Toole said it was going to be a point of order, I knew that would not be the case.

Senator Joe O'Toole: That was well spotted. This is why the Minister occupies his current position.

Deputy John Gormley: I would be happy to elucidate on the matter. I already pointed out to Senator Bacik that a team of international lawyers, ClientEarth, which previously worked with the Australian Government, is working with us on the relevant Bill. I hope to be in a position to publish the heads thereof shortly before the summer recess. I also hope to guide it through the Houses in the autumn. The legislation is complex and ground-breaking in nature and it has real implications for other Departments, including the Department of Enterprise, Trade and Innovation. That is why progress has been slower than I would like. However, that is the political reality.

Senator Joe O'Toole: The Minister made a comment about a lack of consensus among the members of the Joint Committee on Climate Change and Energy Security and referred to people engaging in political opportunism.

Deputy John Gormley: Correct.

An Leas-Chathaoirleach: Senator O'Toole will have an opportunity to make points of this nature when he contributes.

Deputy John Gormley: I stated that the joint committee was established at the behest of the Green Party. Members of the Labour Party and other Opposition parties are using the committee not to achieve consensus but rather in the most adversarial way. Their only goal is to bash the Government. That is not the purpose for which the joint committee was established. I had hoped it would develop a consensus on these major issues.

Senator Joe O'Toole: The Minister's facts do not stand up to scrutiny.

Senator Ivana Bacik: On a point of order, I was the first person to refer to the committee during this debate and I pointed out that it had made a unanimous recommendation on the need for climate change legislation.

An Leas-Chathaoirleach: That is not a point of order.

Senator Ivana Bacik: A consensus did emerge among members of the committee.

Deputy John Gormley: I appreciate the opportunity to address the House on this matter. I have outlined, in a broad way, the current state of play in terms of the various measures and policies in place to protect and enhance our environment. I hope the House will recognise that with policies, plans and legislation now well embedded, we have placed an intensive focus on the critical area of implementation. Effective implementation is the ultimate test of any initiative we take. The Government will continue to demonstrate the leadership, drive and determination needed to maintain the solid progress already being made in delivery of the many environmental commitments in its policy programme. These are designed to enhance and protect our environment for all our people and for future generations.

I commend the Government amendment to the House.

Senator Paudie Coffey: I welcome the Minister and thank the Labour Party for tabling this broad ranging motion which provides us with an opportunity to debate the important matters brought to our focus. As I stated, the motion is broad and encompasses a wide range of issues including water quality, waste management, the environment and legacy sites. While I will not be able to cover all of those issues in eight minutes I will comment as best I can on some of them.

There is a commitment to climate change from all parties. It is regrettable to hear the Minister say the Joint Committee on Climate Change and Energy Security is adversarial. I am a member of that committee and I have not witnessed any of what the Minister claimed in this House is happening. The committee has submitted many constructive proposals and recommendations. For example, the electric vehicles report was initiated by that committee and was utilised to a large degree by Government in framing its policy on electric vehicles. The committee also submitted proposals for a foreshore licensing Bill, the intention of which was to remove many of the barriers to renewable energies and to reduce dependency on fossil fuels. There has been much constructive debate at that committee. I cannot say whether the Minister has misunderstood or is misrepresenting the position. I believe he is being adversarial in introducing that red herring into the debate this evening. The Minister's remarks are regrettable. The Joint Committee on Climate Change and Energy Security has worked hard to produce constructive cross party proposals.

Only today the Joint Committee on Climate Change and Energy Security discussed the national renewable energy action plan which must be implemented by the end of this month. Officials from the Department of Communications, Marine and Natural Resources who attended the committee had not consulted with the committee despite it having strong views in this area. Only two weeks ago it was brought to the committee's attention that targets were being set, serious targets which would have a huge impact on the manner in which Government policy is implemented. These targets should at the very least have been discussed at an early stage with the committee. Late consultation with stakeholders is not the way to go about addressing issues.

Many serious issues have been raised in regard to the setting of targets. The impression was given to the committee that many individual agencies, Departments and Ministers are, with the best of intentions, doing their own thing in terms of reaching those targets. Individual local authorities are drawing up their wind strategies for zoning in areas where it would be appropriate to have renewable energy wind turbines. There is no joined up thinking between local authorities and Departments. Another example of this is that of foreshore licences. We do not know if the Department of Agriculture, Fisheries and Food or the Department of the Environment, Heritage and Local Government is responsible for these licences. This is impacting on water quality. For example, seven villages in Waterford county where I live made a combined application to the Department for the installation of new sewerage schemes. Two or three of the villages concerned require a foreshore licence and because they have not yet been issued with them the application in respect of the seven villages has been held up for almost seven years. There is no co-ordination or fluency in regard to the issuing of foreshore licences. This is an issue the Minister could address and on which there has been little action. The Joint Committee on Climate Change and Energy Security has tried to address this matter through the constructive mechanism of the foreshore licensing Bill. I hope the Minister will take these points on board.

Many of the pilot projects under way, including the smart metering programme, renewable generation programme and micro generation programme, programmes I credit the Government on introducing — I believe in giving credit where it is due — are, unfortunately, closed to new applicants. If we are realistic in regard to how we are to reach our targets those programmes must be rolled out and expanded to enable more people to access them. We must learn from the problems encountered during operation of the pilot programmes to ensure these programmes are implemented in an easier manner.

I am passionate about the issue of hazardous sites and legacy landfills. I acknowledge that the Minister was not in office when many of these were developed. The same is true of many people on this side of the House. In the past, industries were established without thought in

[Senator Paudie Coffey.]

regard to their environmental implications. This is how things were done in those days not alone in Ireland but across the world. We have our fair share of these in Ireland. There are also many of them in the United Kingdom but they appear to be dealing with them a little better than we do. Haulbowline and Silvermines are examples in this regard. I come from Portlaw, County Waterford in which the former cotton mill was located. Portlaw is a planned industrial town developed around all of the supports of an urban town, with employment, health and education services all developed in a short time. In the 1930s, Irish Tanners was, unfortunately — perhaps fortunately at the time — established by the State. Irish Tanners operated on the same site for more than 50 years during which time hazardous and toxic material was dumped on a mill pond consisting of three acres which is directly adjacent to the River Clodagh. I grew up in Portlaw.

I was elected a councillor in 1999. Every agency, Department, Minister and local authority has since then consistently turned a blind eye when I raised the environmental issues in regard to that site. Perhaps this is because Portlaw is but a small town in County Waterford. This site is 50 meters from the River Clodagh in which fresh water mussels live. This species is under threat of extinction yet the local authority is throwing its hands up and saying it does not have the resources to address this issue. The EPA is aware of the problem but is doing nothing about it. I have consistently raised this matter since 1999. I have raised this matter in the Seanad but again nobody has done anything about it.

I do not blame the Minister for this problem. I am speaking to him now as a member of Government. The Minister stated he is addressing the issue of legacy sites. I am telling him that this is not happening and that in many cases the blind eye is being turned. As required under an EU directive issued in 2008 a great deal of money has been spent on remediating the many local authority landfills which were unlined and untreated. These are not the only landfills. There are many industrial sites around the country that need to be registered. I suggest that the Minister's Department require, as per European law, all local authorities to register these sites properly and to survey them and come up with estimated costs for remediation. This would be a good day's work and would result in real action on the ground.

On waste generation, I understand the Minister is in conflict with Dublin City Council in regard to the construction of an incinerator or the introduction of anaerobic digestive systems. Under current regional waste management plans, each region is doing its own thing. We do not have a national co-ordinating management plan that will direct and inform those plans, another issue which the Minister should examine. As I stated, I give credit where it is due. Much work has been done on recycling in respect of which we have exceeded our targets. Society is to be complimented on the manner in which it bought into Government and local authority initiatives in this regard. This has helped to remove the waste streams from our environment and in addressing the issue of dumping.

On water quality and supply, much work remains to be done in rural Ireland. I acknowledge that new water and waste management systems have been installed. However, questions have arisen with regard to the sustainability of those systems, many of which were carried out under public-private partnerships. The hard questions in regard to how these are to be sustained will need to be asked. Many businesses are now being charged for water out and water in, thus causing us new challenges. However, those systems are needed. We also need more of them. I believe that many local authorities continue to pollute our water courses. Raw sewage continues to pollute the streams and rivers of small towns and villages, which is unacceptable.

I acknowledge the Minister is trying to address the issue of septic tanks. I suggest that he engage with those rural dwellers in a positive sense and that, rather than come the heavy hand with these people he offer an incentive which would encourage them to upgrade their septic

tanks. We cannot target the little man if we are not targeting the big men, the people who polluted our environment. I respectfully suggest the Minister introduce grants or incentives to encourage people to upgrade their septic tank systems. I am sure he would be delighted by the uptake in this regard.

There is much I could say in regard to water quality. My colleague, Senator Ó Brocháin will be aware of the cryptosporidiosis outbreak in Galway — an outbreak also occurred in Waterford — and that it took weeks and months to obtain the results of the tests which had to be sent to Scotland and England for analysis. Why can we not have a proper water testing system in our national laboratory to test for cryptosporidiosis and keep on top of the problem if it arises? These are some of my observations. This debate will go on and on, because improvements can be made and will be made all the time.

Senator Dan Boyle: The tabling of this motion by the Labour Party is indicative of the posturing from which we have seen that party benefitting in recent times. It adds nothing to the debate, achieves nothing in terms of improving standards and represents the type of Shangri-La politics that the Labour Party wants to practise. It wants to be all things to all people. The Labour Party speaks out of both sides of its mouth. It claims to be in favour of animal welfare but its votes in this Chamber indicate otherwise. It claims to be in favour of climate change.

Senator Dominic Hannigan: We are in favour of animal welfare. We debated that in depth and the Green Party Minister refused to give us cogent reasons we should vote for the Bill.

An Leas-Chathaoirleach: Senator Hannigan, please allow Senator Boyle to make his contribution. The Senator will have a right to reply.

Senator Dominic Hannigan: I will not have that opportunity. One of my colleagues will reply to the debate.

Senator Dan Boyle: I am sorry I have upset the Senator but I will not engage in the invective with which he started the debate. Allow me to point out the facts. The Labour Party voted against animal welfare legislation that came before the House.

Senator Dominic Hannigan: That is not the case.

Senator Dan Boyle: It claims to be in favour of——

Senator Dominic Hannigan: The Minister failed to make his case. He was not in control of his brief. He failed to convince the House.

An Leas-Chathaoirleach: Senator Hannigan, please allow Senator Boyle to speak.

Senator Dominic Hannigan: On a point of order, the Senator is speaking on an issue that is not on the Order Paper.

An Leas-Chathaoirleach: Senator Hannigan, what is your point of order?

Senator Dominic Hannigan: My point of order is that we are debating the environment. We are not discussing animal welfare.

An Leas-Chathaoirleach: Senator Hannigan, that is not a point of order, for goodness sake. Will you allow Senator Boyle to speak without interruption?

Senator Dan Boyle: The Labour Party claims to be in favour of environmental taxes but when such taxes are proposed they oppose them. The Labour Party claims to be in favour of

[Senator Dan Boyle.]

sustainable transport, yet when Labour Party councillors move motions in local authorities, within 24 hours they are asked to withdraw or water them down because their party leaders tell them they are politically unpopular. I will not take ranting or hypocrisy from the Labour Party.

That is the Labour Party as it is now. Let me tell the House about the Labour Party in government.

Senator Dominic Hannigan: That is not the case. It was not 24 hours. Just because we have members at local authority level — to have local representatives——

Senator Dan Boyle: Let us hear about your environmental record in government. Let us hear about your time in the rainbow Government. What did you do about the nitrates directive?

An Leas-Chathaoirleach: Senator Boyle, please direct your remarks through the Chair.

Senator Dominic Hannigan: This is madness.

Senator Dan Boyle: I have to do this, a Leas-Chathaoirligh, because every time I make a point I am interrupted. What did they do on the nitrates directive? What did they do about the habitats directive.

Senator Paudie Coffey: Senator Boyle is ranting now.

Senator Dominic Hannigan: On a point of order, I am more than willing to let the Senator continue, but he is looking for a response.

An Leas-Chathaoirleach: That is definitely not a point of order. It may be that he likes you, Senator Hannigan.

Senator Dan Boyle: I want to make the Senator think of the consequences of his statements. I make my apology here and now. What did the Labour Party do in government about the habitats directive or the nitrates directive. It did sweet damn all.

Senator Dominic Hannigan: I cannot listen to the Senator trying to defend his current record in government. He is talking about a record of 15 years ago. What is he doing?

An Leas-Chathaoirleach: Senator Hannigan, I will have to ask you to leave the Chamber.

Senator Dominic Hannigan: A Leas-Chathaoirligh, I cannot take this.

Senator Dan Boyle: We can take it.

An Leas-Chathaoirleach: Senator Hannigan, your party will have a right of reply.

Senator Dominic Hannigan: Could we have a debate as opposed to consistent baiting?

Senator Dan Boyle: The Waste Management Bill, introduced by a Labour Party Minister for the Environment and Local Government, includes a provision for incineration, which allows an incinerator to be developed in the constituency Senator Hannigan wants to represent. Would he like to explain to his potential constituents why we have legislation that was brought in by the Labour Party and which he opposes in terms of waste management principles? That is the hypocrisy of the Labour Party. That is why they should be the last to be considered guardians of the environment.

Senator Dominic Hannigan: That is unfair and untrue and we cannot accept it. Senator Boyle's party's record speaks for itself. It is abysmal.

An Leas-Chathaoirleach: Senator Hannigan, you are being disrespectful to the Chair.

Senator Joe O'Toole: He is being provoked.

Senator Niall Ó Brolcháin: So are Senator Boyle and the Green Party. The motion is provocative.

Senator Dan Boyle: I am tired of my party being represented as nice people. When I see some of the bile thrown in front of us tonight, I can only respond accordingly.

Senator Dominic Hannigan: If the Senator wants to see bile, I will give him bile. We merely stated the facts.

Senator Dan Boyle: When I hear such half-baked messages and witness ignorance, I have to say the people who are making these accusations are least well considered to make them.

The accusations by the Labour Party, particularly with regard to water quality, are incredible. At a time of national economic downturn and particular pressures on capital expenditure, the Green Party, through its Minister, has managed to increase spending on water infrastructure. This is the only area of capital expenditure where that has happened in the past three years, yet the Labour Party sees fit to criticise this.

The issue of Haulbowline is close to my heart. I have been campaigning on this issue for 20 years and the Minister alluded to it. The biggest pollution was caused by the Ispat deal in 1995, which was sanctioned by a Labour Party Minister for Finance and a Fine Gael Minister for Enterprise. The State sold the asset for £1 and put in no measures of environmental protection. The State then encouraged the EPA to engage in a merry dance for five years while the pretence of a waste licence was being given. This all happened on the watch of the rainbow Government. That is when the most pollution occurred. When I hear Labour Party representatives in the Cork Harbour area criticising the Minister for the Environment, Heritage and Local Government, who has spent more on environmental protection in the years we have been in government——

Senator Dominic Hannigan: Would Senator Boyle agree to a baseline study?

An Leas-Chathaoirleach: Senator Boyle, you have one minute left.

Senator Dan Boyle: I should have four minutes, given the number of interruptions I have had.

Senator Dominic Hannigan: The Senator is interrupting himself.

Senator Dan Boyle: Do I not get extra time? Most of my time has been taken up by Senator Hannigan.

Senator David Norris: May I point out to Senator Hannigan that it is impossible to interrupt oneself?

Senator Dan Boyle: More money has been spent on environmental protection by this Minister than by all previous Governments combined. The Minister initiated the last report by White Young Green on the actual situation in Haulbowline, what the contaminants are and what the risks are. The report found no risk in terms of airborne pollution and drinking water. There are risks to marine environment and particular measures must be followed through. The

[Senator Dan Boyle.]

Minister also published all the reports done on Haulbowline in the previous 20 years. These reports had been kept secret by all preceding Governments, including Governments that included the Labour Party.

When Senator Hannigan talks about Haulbowline he should not tell me the Labour Party gives a damn about what went on there. The Labour Party is largely to blame for the mess.

Senator Dominic Hannigan: Will the Green Party do a baseline study?

Senator Dominic Hannigan: I cannot take this accusation that we do not give a damn. My father was born on Haulbowline. I have tremendous respect for the island. I will not accept the Senator saying I do not give a damn. That is unfair.

An Leas-Chathaoirleach: Senator Hannigan, you must respect the Chair. That is not a point of order.

Senator Dominic Hannigan: It is a point of order. Senator Boyle said we did not give a damn about Haulbowline. I am contradicting him and telling him we do give a damn.

An Leas-Chathaoirleach: Senator Boyle, you are out of time.

Senator Niall Ó Brolcháin: On a point of order, a Leas-Chathaoirligh, I think you need to give Senator Boyle some more time. He has been interrupted outrageously by Labour Party Senators.

Senator Dan Boyle: I will make one concluding remark. I am disappointed at the number of interruptions I have had to deal with.

An Leas-Chathaoirleach: You invited some of them, Senator. I ask you to conclude.

Senator Dan Boyle: I made one interruption when Senator Hannigan was making his speech, at which he became very upset. I have experienced at least three dozen interruptions during my contribution. If I speak with passion, it is because I sincerely believe the intent and veracity of the motion are underlined and undermined by the lack of sincerity of those who have moved it. There is only one course of action, that is, to reject it and support the amendment tabled by the Government.

Senator Joe O'Toole: In all fairness, the motion tabled by the Labour Party is not very critical of the Government. It simply asks for sufficient measures to be taken. It is good to see the Green Party feeling its oats again and coming out fighting. This is good and healthy and Members on the Independent benches are very pleased to see it happening.

Senator David Norris: Hear, hear.

Senator Joe O'Toole: The truth is the motion is not excessively condemnatory of Government policy.

Senator Dan Boyle: Did the Senator hear the speeches?

Senator Joe O'Toole: The smart thing for the Government side to do would be to accept the motion because there is no problem with it. When the Minister, Deputy Gormley, moved from his script, he was completely wrong. I, too, am a member of the Joint Committee on Climate Change and Energy Security. I stand to be corrected, but I cannot remember any occasion — the Minister should check the record and correct what he said if he was wrong——

Senator Dan Boyle: This is not about the committee.

Senator Joe O'Toole: The Minister spoke about a lack of consensus at the committee. I support Senator Coffey in the points he made. As Senator Boyle stated, the committee was established because of a demand made by the Green Party.

I should have said I would like to share my time with Senator Norris.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Joe O'Toole: The committee did something unique. It published a fully agreed Bill, the Foreshore Licensing Bill, which it sent to the Minister, but nothing has happened. It was a classic example of where all parties and none had got behind the Government in support of its policy. There was nothing in the Bill that caused a difficulty for the Government. It dealt with a very important issue that was causing problems all over the place, namely, that space between high tide and low tide in offshore energy projects. I would like to ask the Minister why he did not accept the Bill which has been passed from one Department to another.

Another issue raised by Senator Coffey concerns an all-party report — supported by the Labour Party and the Green Party before Deputy Gormley became Minister — on electric cars. There was total support for the Green Party's policy. The report urged the Government to go further and offered it the full support of all groups represented on the committee. The leading person behind it was Deputy Coveney of Fine Gael.

Another Department has become involved in the geothermal energy issue, that of the Minister for Communications, Energy and Natural Resource, Deputy Ryan. The members of the committee are aware of enormous investments made in geothermal energy projects, some in or very close to the constituency of the Minister of State, Deputy Brady. Investors have put together all of the basics for the capturing of heat for district heating systems, but they must be granted authority to capture that heat because it would be delivered via land which may not be owned by the initiators of an project. It is similar to that of mining rights. Legislation must be introduced to cover the matter. I have been assured in the House on at least three or four occasions that its publication is only around the corner, but we have not yet seen it.

I will not go into the matter of climate change because the committee has raised it repeatedly. However, it is disappointed. It brought forward a report, this time driven by the Labour Party representative, Deputy McManus, who did significant work in support of Government policy. I have the report of the rapporteur for the committee which is in no way critical of the Government's position or divisive. Any person should jump to support it.

The position is unfair. The committee Chairman, Deputy Barrett, is scrupulous about ensuring the committee will not be used to undermine the Government and has been entirely fair. However, he shares my frustration and that of Senator Coffey and many other members of the committee, including those on the Government side, that we have not made progress on the matter.

I refer to the environmental issues raised by Government speakers. The issue of water quality in Galway was mentioned. People with access to swimming pools backwash the filters every couple of weeks or months. They use sand filters such as those used in one of the main water treatment facilities in Galway. I understand there was no such treatment in that place because of a management problem. In other words, the plant was using the same sand filter put in place in 1947 or 1948 which had never been upgraded, serviced or backwashed. Material was passing straight through the filter which might as well not have been in place.

On water charges, I ask Senator Boyle to point out to the relevant Ministers that the charge to be levied will not be for water which is free. One can go out with a bucket when it is raining

[Senator Joe O'Toole.]

and collect as much water as one wishes. One can put the bucket down a well or even dig one's own well. The charge will be for the delivery and treatment of water.

Senator Dan Boyle: Correct.

Senator Joe O'Toole: Every time a Minister stands up to talk about water charges, he or she invites opposition. There must be recognition that the treatment and delivery of water are costly. There are fair ways of doing this. One can ensure everybody will receive a certain quantity of water before being charged.

An Leas-Chathaoirleach: I remind the Senator that he is sharing time.

Senator David Norris: I do not mind waiting. I shall take my chance later.

Senator Joe O'Toole: The Minister of State might consider the following issue as being taken out of context, but it is not. The frequently mentioned proposal to get rid of town councils and smaller groups throughout the country would be disastrous.

Senator Dan Boyle: It was not mentioned by us.

Senator Joe O'Toole: I understood it had come from the Government side, but perhaps I am wrong. The people who will look after the environment are locals. Only when money raised from water charges and rates is spent by local groups will the matter receive attention. If it is spend on the wrong item, the people down the street will argue about it, whereas they take no notice at present.

I do not know what is the Government's policy on incineration. Senator Boyle had a go at the Labour Party. I wish I knew where the Green Party stood on the issue.

Senator Niall Ó Brocháin: Our policy is clear.

Senator Joe O'Toole: As Senator Coffey and I stated, we do not know how many incinerators are being built. The last time I checked there were possibly eight or nine.

Senator Niall Ó Brocháin: Senator Coffey knows.

Senator Joe O'Toole: He does not. He and I have sought the information many times.

Senator Paudie Coffey: There are five regional waste management plans in which the provision of an incinerator is proposed.

Senator Joe O'Toole: There are an enormous number of elements involved and certain actions need to be taken. I compliment the Green Party on much of what it has done in government. Like Senator Coffey, I will give credit where it is due. However, certain matters need to be faced. We need to move forward. The Joint Committee on Climate Change and Energy Security is frustrated because the Government is not moving on some of the issues I have raised and many more. All of the work of the committee has been superbly done, presented and is available to the Government. None of it undermines Government policy. Senator Coffey may correct me, but I do not believe any of it has even been critical. We have been critical of delays, but that is as far as the committee has gone. That criticism has been made as much by Government members as by others.

As to how the House should deal with this business, we must look at the issues of water quality and local government which are linked with the environment. Senator Coffey mentioned the issue of waste and pools that have not been dealt with in his area beside the River Clodagh. That is a real issue for local people. We must look at such matters. The Government

should be pushed. As such, I will support the motion which the Labour Party has tabled in very simple terms: “That Seanad Éireann calls on the Government to institute sufficient measures to ensure that the Irish environment is adequately protected and enhanced, particularly in relation to ... climate change legislation ...”. I thought the early enactment of climate change legislation was Government policy. Listening to the Minister, I thought “the quality of our rivers and our water supply, the maintenance and improvement of our public beaches and remedial measures to address hazardous waste sites, including at Haulbowline”, were also part of Government policy. Which aspect of the motion causes a problem for the Government? I have listened to the entire debate——

Senator Dan Boyle: The Senator did not hear the opening speeches which were——

Senator Joe O’Toole: I listened to them. I vote on the basis of the wording of a motion. The Government is making a tactical mistake. It should have welcomed the support of the Labour Party and asked it to join with the Green Party.

Senator Martin Brady: I agree with everything Senator O’Toole said and welcome the Minister of State. I also welcome the reply to the motion of the Minister for the Environment, Heritage and Local Government, Deputy Gormley. I do not believe he said there was no consensus on the matter; there is. We are all singing from the same hymn sheet, but we have different ways of going about things and want measures to be introduced quicker. I do not agree that Senator Hannigan is a hypocrite. He is a man I highly respect. Perhaps some of us should be members of Actors’ Equity.

Tackling environmental issues is a priority for Fianna Fáil in government. It is committed to implementing an ambitious environmental programme, which includes protecting and preserving our water resources, tackling climate change and continued improvements in waste management policy.

The environment budget is €2.3 billion in 2010. One of the key measures is the introduction of a new carbon levy which will yield in the region of €250 million this year and €330 million in a full year. Its introduction is a landmark step in integrating climate change measures with the annual fiscal budgetary process. Some €90 million will be spent on retrofitting, of which €36 million will ring-fenced for households experiencing energy poverty. This is double the amount allocated in 2009.

The Government has published a new transport policy, Smarter Travel — A Sustainable Transport Future, and a great deal has been achieved to date. I compliment Dublin City Council on the introduction of its bicycle scheme under which its bicycles are being widely used. The scheme has been effective in getting people to move from the car to public transport, as is evident on the streets of Dublin city in the morning.

The Minister has circulated a draft framework for the climate change Bill 2010 which outlines the key provisions on which detailed heads will be based. Work on their drafting is at an advanced stage. The Minister has said he expects, following Government consideration of the Bill, to be in a position to publish it shortly.

The Labour Party has called on the Government to implement measures to protect the quality of our rivers, public beaches and water supply. Last week An Taisce published details of the 2010 list of international standard clean beaches. It found that six Irish beaches had lost their blue flag status, while five others had regained theirs. Some 76 Irish beaches and marinas have been awarded blue flag status for this summer season compared to 77 last year. A total of 80 were awarded this status in 2008. While the overall results in regard to water quality were disappointing because of heavy rainfall and so on, I am confident that the actions taken by the Government to tackle water quality will lead to an increase in the number of beaches being awarded blue flag status in the coming years.

[Senator Martin Brady.]

The Government is committed to tackling water quality issues in the water services investment programme 2010 to 2012 which will see €1.8 billion invested in some 340 contracts. The new programme will provide for the provision of crucial infrastructure in the next three years, a greater focus on water conservation measures and river basis management planning. The continuing high level of the Exchequer allocation — €508 million this year alone — is a clear statement of the priority the Government attaches to preserving and protecting our water resources to meet EU standards for drinking water and wastewater treatment. The programme, therefore, provides for an investment of €320 million in repairing leaking networks, a doubling of expenditure in this regard in the past seven years. This will help to eliminate waste and protect water basins. It is important that households moderate their use of this increasingly expensive and critically important resource which we sometimes take for granted.

The role of the metering programme leading to water charges will contribute to more sustainable levels in water consumption. Following the phased installation of water meters, households will be charged for water based on their usage in 2012. It is interesting to note that the Labour Party has tabled this Private Members' motion calling on the Government to implement measures to protect the environment, in particular the quality of water, but it has failed to state where it stands on the important issue of water charges. As Senator O'Toole rightly pointed out, it costs money to provide water and have a good quality water supply. The Labour Party has refused to show leadership on the issue which forms a key part of the Government's plan for investment in the supply of water in the next three years. When Deputy Gilmore was recently asked the party's policy on water charges in an interview on Newstalk's "Breakfast" show, he made it clear that the Labour Party still had no position on the matter. He said, as reported in an article in *The Irish Times* on 19 May 2010, "Well, that is something we're looking at at the moment. We have to look at what the European rules are on it. We have to look at the cost of metering." Senator Boyle made the same point. Parties have to let the people know where they stand on the issue. It is easy to say they want better water quality, but the money must come from somewhere.

Following publication of the new water services investment programme, the Labour Party's environment spokesperson, Deputy Tuffy, in typical populist fashion, came out immediately to criticise the substantial investment in water services. It is not good enough for the Labour Party to criticise every policy measure taken by the Government and then fail to bring forward its alternative proposal or state clearly its stance on such an important matter. The Government is taking measures to protect the environment. It is about time the Labour Party indicated the measures it would take to improve our water services, but it has failed to do so to date.

Some improvements in water quality have been made. The Environmental Protection Agency's report on urban wastewater discharges in 2006 and 2007 was published in 2009. On compliance with the requirement of the EU urban water treatment directive relating to secondary water treatment facilities, there is now a 92% compliance rate compared with a figure of 25% in 2002.

A further point I wish to make relates to encouraging people to grow their own vegetables. There is a huge waiting list for allotments in Dublin City Council. Huge land banks around the city and in other parts of the country are lying idle. I ask the Minister to take this into account and try to acquire some of this land to meet the needs of the large number of people on the waiting list. There are 3,000 on the waiting list for allotments in St. Anne's Park, but there are only 120 allotments available. I ask the Minister to take this point on board.

Senator Brendan Ryan: Of the elements of the motion, I will deal with public beaches. I am encouraged that the Labour Party is coming under attack tonight because it indicates somebody is concerned about us. I am always encouraged by this.

Compliance with EU bathing water standards is based on the parameters specified in EU directive 76.160/EEC . The results of tests on samples are analysed or assessed to ensure compliance with two sets of EU standards specified in the directive, namely, minimum quality standards, or EU mandatory value, and the more stringent quality targets, or EU guide values. During the bathing season water quality in each bathing area must comply with minimum EU mandatory values. In addition, in all bathing areas one should endeavour to achieve the stricter EU guide values.

The Environmental Protection Agency recently reported that in 2009 the quality of Ireland's bathing waters remained "high". That is good news, but not great news. There are 131 designated bathing areas, water quality in 122 of which complies with the EU mandatory standards. Its status is classed as being of sufficient quality. In addition, water quality in 82% of bathing areas — 108 of the 131 areas designated — complied with the stricter EU guide standards and thus achieved the status of good water quality. Nine of the 131 bathing areas — 7% of the total — failed to comply with the minimum mandatory standards and were classified as being of poor water quality status. In combination, 18% of our bathing areas are not categorised as being of a good standard. The mandatory or "sufficient" standard still allows between 500 and 10,000 coliforms per 100 millilitres of sample. It also allows between 100 and 2,000 faecal coliforms per 100 millilitres.

Whether we ought to rest on our laurels and describe such a performance as being good is open to debate. Anything less than good is not acceptable. Unfortunately, three of the nine bathing areas that failed to comply with minimum mandatory standards are in my own local authority area of Fingal. There is no doubt that the over-development which took place in north Fingal in the past 15 years, without proper sewerage infrastructure, is a major contributing factor. The local authority is now playing catch-up. This must never be allowed to happen again anywhere in the country and it is very disappointing for the people of Fingal and the greater Dublin area. Three of its most popular bathing areas failed minimum EU quality standards and received a "poor" water quality status for last year.

This is a matter of grave concern for those who depend on the attraction of our seaside resorts and coastline. During the years the residents' associations, business and community groups have, by means of their voluntary work, built up the reputation of their towns and of their beaches. This report will be most disappointing to these activists.

The Department of Environment, Heritage and Local Government, together with the local authorities, must take responsibility for non-compliance with the EU standards. In response to this report, Fingal County Council stated that the beaches failed because of heavy rainfall, causing overflow of pumping stations, overflow from septic tanks and from on-site treatment plants. This response is totally unacceptable. Is the quality of our bathing areas forever going to depend on our weather? Rainfall can exacerbate a problem, but only when there is an underlying issue there in the first place. It is important that both the council and the Department are up front with people.

As and from last year, Fingal County Council is subject to a discharge licence for the Balbriggan and Skerries treatment plant and has legal obligations under that licence. The licence also covers the distribution network. I have been in contact with the EPA and have been informed that on foot of these 2009 results, Fingal County Council will be directed to resolve the problems by carrying out remedial works and upgrading the network by the end of the year to resolve the underlying problems. I hope this welcome enforcement action by the EPA will have the desired result. However, this will require that funding be made available to the local authority by the Minister to have the necessary upgrade carried out. I hope he will respond positively.

While disappointed that some of our beaches have failed to meet the EU standards, progress has been reported with other beaches in Fingal, and this is to be welcomed. The water quality

[Senator Brendan Ryan.]

at Malahide and Loughshinny beaches went from “poor” to “sufficient”, while that at Portrane went from “poor” to “good”, which is an upward jump of two grades. The EPA report, which classifies bathing water quality as being either “poor”, “sufficient” or “good” is a useful indicator. However, the blue flag award for beaches goes beyond water quality and includes environmental education and beach management. This is much more important. Water quality must meet the “good” standard for two consecutive years before a local authority can apply for the flag for any particular beach. For example, the beach at Portrane met the water quality standard in 2009, but not in 2008; therefore, Fingal County Council could not apply for the blue flag status for this year, but if good results continue, it will regain the status next year.

The blue flag is a European brand and as such is a valuable asset when trying to attract tourists from the European market.

A blue flag status for all our beaches must be our objective, and the EPA water quality standards are early indicators of progress, but not an end in themselves. There should be a national strategy for the achievement of blue flags. Local authorities should be directed by the Department to produce plans for achievement of certain milestones along the way. The number of blue flags in Ireland this year was reduced by one, with five regaining the status, but unfortunately six losing it. Ireland now has 76 blue flag bathing areas. This represents 58% of our total designated bathing areas, so we still have a good bit to go.

Our beaches are considered to be one of the most vital recreational facilities available to residents and visitors alike. Action must be taken to ensure this continues to be the case, and that our beaches and bathing areas remain the vital natural amenity that all of our people can enjoy. Excuses are no longer acceptable.

Senator John Ellis: I welcome the opportunity to make a short contribution on the motion before the House. We all have environmental issues at various levels. I would like to highlight a few that are possibly not the direct responsibility of the Minister, but the responsibility of agencies that are responsible to him.

We have all heard the debate in recent months on one-off houses and the treatment units that are being provided for those houses. People have had problems trying to get planning permission to build houses on sites that are family owned, and many reasons have been given to deny permission. One of the main reasons in my county of Leitrim is that the treatment units that are put in to treat the sewage from these one-off houses do not meet a certain standard. However, when the companies that supply these treatment units have sought the prescribed standard from the EPA, it turned out that the EPA has no standard. That is a terrible situation. The EPA cannot provide the specification required for people to be allowed to build houses in rural Ireland. This is unacceptable. Most of these treatment units produce what is known as grey water, which can be used for watering lawns or for any other non-domestic use. It can make a contribution to the environment by preventing people from using treated water to water their flowers. We know the cost to the State of producing such treated water.

Water charges come from the cost of treating water. This is an opportunity for less water to be used in these households if a proper, clear initiative could be given by the EPA on the required standards. In spite of persistent requests by various people involved in the business of supplying treatment units, the EPA is not in a position to provide the relevant standards. That is wrong. We can set standards for discharges from public sewerage schemes, but we cannot set them for discharges from one-off houses. That must be examined as soon as possible. I raised this today on the Order of Business and I will continue to raise it until I get an answer from the EPA on the required standard.

Another problem we have is the number of objections to projects that are environmentally friendly. We see objections to wind farms, biodigesters and anything that seeks to improve our

environment. Many of the people who object are so ignorant of what is proposed that they are not for real. Some of the objections are totally ludicrous. It is very difficult for wind farms to be connected to the national grid for any of these projects. We have seen cases in which planning permission granted for wind farms have run out because they cannot get connected to the grid. It is long past the time when the ESB should be asked to allow these connections if we are to try to meet our targets under the Kyoto Protocol. It is ridiculous that we find ourselves in this situation.

Some of the small thermal treatment units are well able to deal with waste and these could be established in certain areas, rather than having to drag stuff from one end of the country to the other into landfills and even outside the State. This could be disposed of through these units and the only by-product is ash, which could be recycled and used in road construction. The power generated by these can go back into the national grid again.

There are vested interests out there that are preventing a green agenda from moving on, and the people behind this will have to be tackled. These vested interests have for too long been able to prevent us from acting as the guardians of the environment that we inherited. We have to accept that this generation and the generation before it probably did more to vandalise the environment than generations for 1,000 years before them. If there has been vandalism, there is a need to redress it. We have an opportunity to do so very quickly and leave the environment in a better state, but red tape continues to prevent progress. Some of the organisations established to deal with environmental matters are out of synch with what is required in the modern age. It takes them too long and they do not want to make a decision. They will speak and debate indefinitely, but decisions are the last thing they want to take. We will have to do something about this.

Various Governments have made an enormous contribution to providing properly treated water, particularly in rural areas. Some county councils are also to be complimented. I certainly compliment the county council in my home county of Leitrim which has one of the best available water schemes. Every small village in the county has a sewerage scheme. However, the only reason for this is that the council took the initiative and used the money available during the Celtic tiger era to implement these schemes. The net result is that we do not have the problems experienced in other areas.

It is terrible to hear Senator Coffey state raw sewage is discharged into rivers. That is not acceptable.

Senator John Paul Phelan: It is happening.

Senator John Ellis: We all know it happens in certain areas, but there are alternatives. The Environmental Protection Agency could set standards and allow people to deal with the matter themselves. The public does not want raw sewage in rivers because it knows the river may be one from which water is extracted for a local supply two miles downstream. It is all out of line. We have too many regulations from people unable to implement them.

There are plenty of opportunities to move a long way from where we are. The Minister was constructive about what he proposed and saw as the work carried out. Many simple things could be done. I want to mention environmental vandalism by people who drop their waste here, there and yonder at somebody's gate or across a farmer's hedge into a field. They are not entitled to sympathy when caught. In parts of my county people participating in community employment schemes pick up papers and bottles thrown along the side of the road. The Minister for Social Protection, Deputy Ó Cuív, will introduce a new scheme under which this type of work should be allowed. I appeal to the unions that if such a proposal is put before them, they allow those in receipt of social welfare payments who will be given an opportunity to work on community employment schemes or their equivalent to do such work and clean up our environment. This is imperative.

[Senator John Ellis.]

Some have attacked the rural community and farmers, in particular, with regard to vandalism. They are the people least likely to engage in vandalism because they must look after their environment. Certain regulations have made life impossible for them, one of which involves a ban on the spreading of slurry at certain times of the year. Last year the ban was in place during the best weather there was for doing so. When it was legal to do so, it was pouring rain and all one was doing was washing it into streams and causing environmental damage. There is no one-fits-all system. I know the Minister was receptive when his colleague, the Minister for Agriculture, Fisheries and Food, asked him to extend the time during which it was legal. No farmer will spread slurry on wet ground when it is lashing rain knowing that it will be washed into watercourses.

I could go on to discuss many other issues——

An Leas-Chathaoirleach: I am afraid the Senator will not be able to do so this evening.

Senator John Ellis: The Leas-Chathaoirleach is about to silence me.

An Leas-Chathaoirleach: Yes.

Senator John Ellis: We all have a duty to protect the environment and to hand it on to the next generation in a better state than we found it. If we do not continue to be constructive, rather than being destructive, in many cases we will not do so.

Senator David Norris: I welcome the Minister of State, Deputy Áine Brady. I would also have been happy to welcome her predecessor in the House who made a very valiant stand this evening. Very often these Wednesday evening debates during Private Members' time are an opportunity for posturing with a tit for tat routine that means absolutely nothing. However, this evening we have learned a certain amount and I am grateful to the Labour Party for tabling the motion which provoked a significant response from the Minister. It was the best performance I had seen from him in the House. The contribution of Senator Boyle was spirited and absolutely passionate. It came not only from the mind but also from the heart, which is what gives the House real value.

With all the passion we have, we should be on the same side because we are fighting over the same environment, whatever party and ideological framework we come from. In this light, as there was very little that could be offensive to the Government in the Labour Party motion, I told the Labour Party that the only part with which I could see a problem was where it sought the early enactment of climate change legislation promised by the Government but not yet delivered. That statement is factual because I was in the House when Senator Bacik presented her Climate Protection Bill. At that stage she was an independent university Senator. It is a fine piece of work and the Minister was in considerable sympathy with her and gave an undertaking, with a timeframe, that it would be introduced. This was not met, but it was because of the complex difficulties outlined by the Minister this evening. I asked the Labour Party representative, Senator Hannigan, whether he would agree to delete that phrase in order that I could speak with the Government representative, which I did. However, it was considered that my intervention was a little too late, although it might have been accepted. I say this because there is a constructive feeling, despite the dramatics this evening, which I certainly welcome, as they indicated the sincerity of the participants.

I was also told there might be a little difficulty with the final phrase, "remedial measures to address hazardous waste sites, including at Haulbowline, County Cork". However, if I were on the Government side, I would state the Minister answered this very clearly when he indicated this is exactly what was being done. He has stated that in recent years Cork County Council has carried out a comprehensive site investigation, initiated ongoing environmental monitoring

at established monitoring points, decontaminated and demolished the steelworks buildings and arranged for site surface clearance. The problem is presented by what may be contained in the infill and soil. The behaviour of the steelworks under its new ownership certainly broke every possible environmental regulation. The Minister stated, "Under my watch, more has been spent on environmental remediation at Haulbowline in a 12-month period than was spent in the previous 68-year history of the site." That should make it perfectly easy for him to accept the final clause of the Labour Party motion because the answer is contained in his speech. It was very sad that an Irish business, Irish Steel, was sold off to an Indian speculator for a nominal sum with no restrictions placed on operations at the plant and no requirement to engage in remedial action. It was an unwholesome episode.

I have consistently raised the issue of water quality. I was delighted to hear a passionate speech from Senator Coffey. It is great to have Members in the House who can speak with such conviction and such a level of knowledge and expertise without reading every word from a script. If it is not seen as patronising, I commend the Senator for making an excellent speech. I was very pleased to hear him talk about cryptosporidiosis and hope he will not mind when I say I brought up the issue some time ago before his election. I was briefed by the university in which I taught on the subject, as it was seen to be of considerable importance. It was so new at that stage that I asked someone to spell the word "cryptosporidiosis" and I am glad to say I was so well briefed that I was able to do so.

We have had a negative judgment recently from the European Court of Justice concerning the quality of our drinking water. Nobody could be happy with the levels of contamination which is a source of real concern. Large sections of our society, Galway in particular, as the Minister of State will know, have been left without drinking water for considerable periods of time, which is scandalous and intolerable, as we are not living in the middle of a desert. Water is not a resource which should be unmanageable. It is a management problem which needs to be looked at.

I would be prepared, rather than delighted, to pay water charges. I believe in the polluter pays principle and that the consumer should pay in accordance with his or her means. There are people who find themselves in more difficult socio-economic circumstances who rely on local authority housing, for example, who should not be badly hit by water charges, but I would be happy to pay as long as I had a good water supply of the proper quality. The Minister of State can include me as somebody who would be happy to pay. I welcome metering because one should pay for what one consumes. I have a house in a very remote area of Cyprus in an agricultural village on the Troodos mountains. It is not the most advanced and sophisticated environment, but my water supply is metered. I do not see why it should be beyond the technical capacity of the authorities in Ireland to introduce it here. I am very glad it is being introduced because it is fair and one should pay for what one consumes.

On other aspects of water contamination, I agree with Senator Ellis. I am aware that the inflexible application of rules can be inappropriate in the spreading of slurry. Farming is a seasonal occupation. One cannot predict the weather with enormous accuracy over a long period. It is not just a question of the impact on farmers; the Senator saw things largely from their point of view when he said no sensible farmer would spread slurry when he knew it would be washed away. However, we must consider the question of where it is washed into. Only yesterday the newspapers were full of stories about another huge fish kill as a result of the release of agricultural slurry. That is a great pity.

I would like to bring to the attention of the Minister of State the risks to the environment from mineral exploration. There is a horrendous, breathtaking tragedy in the Gulf of Mexico, involving BP, where millions of gallons of oil are being spewed out. There are large question marks against technical efficiency levels, the ignoring of advice and turning away from the necessity to plug a potential leak in one of the control systems. BP is one of the major oil

[Senator David Norris.]

companies which I ask the Minister of State to bear in mind when we are examining Shell. Deep sea exploration is taking place in the Corrib field and the people of County Mayo have been rightly protesting about their situation where we handed over — just as Irish Steel was handed over for £1 to a speculator which led to damage further down the line — our oil and gas resources for nothing. Exploration is difficult and one has to tempt people with bait, but we have the worst tax yield in the world and a system under which the ordinary people who choose to protest against something which may very well be dangerous, inimical to their welfare and threaten their homes bear the brunt of an attack upon them by Shell, sadly aided by the organs of the State. Like I think everybody else, I am in favour of protecting the environment.

I am very glad that Senator Ellis skirted the possibility of making an attack upon An Taisce. I almost thought I saw the words “An Taisce” forming on his lips, but they did not because the Senator and I know that what An Taisce stated about the dangers presented by one-off housing in the countryside has been absolutely borne out by the pollution of groundwater. There is no question about this. Now there is barely a mention about having to pick up the cost of remedial action. I express my continuing support of An Taisce——

Senator Paudie Coffey: The Senator should not forget his rural constituents.

Senator John Ellis: On a point of order——

Senator David Norris: I am thinking of their welfare.

An Leas-Chathaoirleach: I call Senator Ellis on a point of order.

Senator John Ellis: If the good Senator is going to embroil me in a row with himself and An Taisce——

An Leas-Chathaoirleach: That is not a point of order.

Senator John Ellis: ——he is wrong. I never mentioned An Taisce, but the one thing I did say——

(Interruptions).

Senator John Ellis: ——was that the EPA could give people guidelines in order that they could rectify any problems.

Senator Michael McCarthy: I am not a member of An Taisce.

Senator John Ellis: The Senator has no intention of joining.

Senator Michael McCarthy: Absolutely. I was not monitoring the lips of any other Member of the House while Senator Norris was speaking. For future reference, I imagine the residents of the beautiful hamlet in northern Cyprus would like to build one-off rural houses and enjoy the same privileges as Senator Norris.

Senator David Norris: On a point of order, it is located in southern Cyprus.

An Leas-Chathaoirleach: That is not a point of order.

Senator Michael McCarthy: In concluding the debate I thank all Senators from both sides of the House who contributed.

Senator David Norris: The Senator might like to know there is now very strict planning legislation in place in Cyprus.

Senator Michael McCarthy: Please forgive my ignorance, but the best of luck to anyone with a once-off rural house in northern or southern Cyprus.

It is true, as Senator Norris said, that we all talk about the environment. We all care about it and it is very important that we inspire to initiate debates on various environmental issues. It is healthy to revisit such good initiatives as Senator Bacik's Climate Change Bill.

I mention an initiative run in conjunction with An Taisce, as critical as I have been of it during the years, the green flag initiative. I had the honour of attending my local primary school last Friday and hoisting its second green flag in a two year period. Earlier this week I attended Scoil Bhríde in Ballydehob which has hoisted its third green flag. It is wonderful to see such good environmental practice and a sense of duty and interest among local communities. It is also good to instill a sense of active citizenship in young people and bring them into the decision making process from a very early age.

I examined the literature and documentation in St. Mary's primary school in Dunmanway last Friday and it was wonderful to see the seven steps listed and the manner in which they were carried out diligently without fault or failure. It is a wonderful scheme which educates a whole new generation and ensures, as Senator Ellis said, that we will leave this planet in as good a state, if not better, than we found it because we are only temporary custodians. We should always be cognisant of the fact that there will be future generations, to whom we have a sense of duty. If there ever was an international event to frighten or remind us of our sense of duty, it is the disaster in the Gulf of Mexico. It is truly appalling to see millions of tonnes of oil spewing out into the gulf, wiping out marine wildlife and severely damaging what has been a good and vibrant seafood sector. I do not think the \$20 billion BP has pledged to provide will ease the damage in the short term. It is shameful to see such a development in the third millennium. Despite the wealth and technology of advanced nations, we are absolutely powerless. One imagines from the pictures on the television that it would be easy to address the problem but, unfortunately, that is far from the case.

I wish to focus on the aspect of the motion that pertains to Haulbowline. Senator Boyle and others will acknowledge the cross-party support that exists around the harbour for a baseline health study. In July 2008 the Minister, Deputy Gormley, visited the area with Senator Boyle and he appears to have taken on board the concerns raised by residents because he stated in the Dáil afterwards:

Yesterday I spoke to the residents about the idea of a baseline health study and, indeed, it has been suggested by my colleague, Senator Dan Boyle, for quite some time...I do not profess to have great knowledge in this area. Certainly, a baseline study is to be recommended and I will go to Cabinet with that.

The National Cancer Registry indicates that the incidence of cancer in the area is 37% higher than the national average. A baseline health study is needed to rule out the possibility of a connection between the thousands of tonnes of toxic waste dumped on the former Irish Steel site and the area's cancer rate. In the light of the discovery by a German company that the waste included chromium(VI), such a study is essential. Unfortunately, the Minister for Health and Children, Deputy Harney, refuses to make a decision on the matter. We should revisit the commitment that the Minister, Deputy Gormley, gave in good faith and take account of the political consensus in the area which demands a baseline study to give people a sense of the issue and to rule out the possibility that toxic waste is causing cancer. We are entitled to that study.

A Minister gave a commitment in good faith only for another Minister to make a contrary decision. The Minister, Deputy Harney, must have received advice on the issue and if this advice led to her conclusion, elected representatives are entitled to have it made available to us. I appeal to my Government colleagues to subscribe to the political consensus by asking her

[Senator Michael McCarthy.]

to reveal whether she received environmental and scientific advice and whether it took cognisance of the National Cancer Registry figures for the area. Did her advisers share the opinion of the German company regarding chromium(VI)? If we are to allay the fears of the people of the area, it is essential we ask her to publish her advice.

I thank speakers for their contributions, irrespective of the side that they argued. This debate was a healthy use of Private Members' time.

Amendment put.

The Seanad divided: Tá, 26; Níl, 19.

Tá

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

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

Níl

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

Hannigan, Dominic.
McCarthy, Michael.
McFadden, Nicky.
O'Toole, Joe.
Phelan, John Paul.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
White, Alex.

Tellers: Tá, Senators Camillus Glynn and Niall Ó Brolcháin; Níl, Senators Michael McCarthy and Brendan Ryan.

Amendment declared carried

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

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

Adjournment Matters

Health Services

Senator Marc MacSharry: I welcome the Minister of State, Deputy Áine Brady. My matter is as follows: the need for the Minister for Health and Children, in light of serious questions

which arise from the content of documents released to me under the Freedom of Information Act as directed by the Information Commissioner, Ms Emily O'Reilly, to hold an independent review of governance standards in the HSE and the Health Information and Quality Authority; to carry out an evaluation of the relationship and interaction between both organisations; and reform of the Health Act 2004 in order to introduce some level of public accountability to our health service.

As the Minister of State and Members will no doubt be aware, in recent years in the context of fighting to prevent cancer services moving from Sligo to University College Hospital Galway, I sought information, including a number of reports, from the Health Service Executive and HIQA. I do not want to dwell on the cancer issue for Sligo because sadly the horse has bolted on that issue, much to the inconvenience of the people in the entire north west region, an argument I made here on many occasions in the past. The information I have managed to secure — the documents I have finally managed to extract from both organisations — and not least the inordinate and obstructive process to secure them raise potentially very serious questions over the integrity and credibility of both the Health Service Executive and the Health Information and Quality Authority. They also suggest an urgent need for the examination of the objectivity of the work of our so-called independent standards and quality watchdog.

I have the report before me. I know that if documents are to be mentioned in the House, I need to lay them before the Office of the Cathaoirleach, which I have done. It took me 14 months to get this information in order to assess the work of HIQA, our independent quality authority. Its website states: “we will publish the findings of our inspections so that the public can make informed choices when seeking care”. That is only in the instance when there is a Senator Marc MacSharry who is prepared to spend €500 and 14 months trying to extract that information. It is only when Senator Marc MacSharry manages successfully to solicit the support of the Office of the Information Commissioner to get that information.

I do not want to get drawn into the cancer issue again because much bigger issues are at play. However, the HIQA report proves — not my words, but its words — that University College Hospital Galway was not ready for the transfer from Sligo.

Senator Nicky McFadden: Hear, hear.

Senator Marc MacSharry: It did not at that time meet the standards. That is a fact and a matter of public record. I regret that I and many thousands of people in the north west were vilified by health professionals and, in my view, people who acted in concert to subvert the course of a process that should have been objective, but was completely subjective. These are all matters that are borne out in documentation finally extracted under duress from the Health Information and Quality Authority.

One HIQA document that came to me was a minute of a meeting which involved the management of the hospital in Galway; its surgeons; Tony O'Brien, the revered head of the national cancer control programme; and John Billings, the quality director of the Health Information and Quality Authority. The top of the document states: “Draft confidential, not for circulation”. It does not surprise me. I must quote from it. When members of the medical team in Galway indicated they were nervous about the review it states:

HIQA will construct something that will allow the reviewers to dip into details on certain aspects, but will not aim to catch the centres out. [That is damning in the extreme.] Surgeon is concerned that HIQA may fail on a technicality.

At this stage JB — John Billings, no doubt, the director of quality in our so-called independent Health Information and Quality Authority — said: “No. That will not be the case. We will not do that.” These are all documents that we have now managed to get. It took 14 months. In response to my request for all relevant documentation to do with the preparation of this report

[Senator Marc MacSharry.]

and the minutes of any relevant meeting, on 18 June 2009 the Health Service Executive had the gall to write to me stating: “No such meetings have taken place between Galway University Hospital and HIQA”.

So what have we got here? It is most concerning. We need to assess the implications of the effective organised concealment of information of systemic importance to what HIQA is supposed to be doing in informing the public when they are making informed choices in seeking health care. However, it was the organised concealment of this information that prevented that. In assessing this matter, the similarity with some of the causes of our financial meltdown is unbelievable. We have seen the catastrophe that has been caused in our economy by the unhealthy proximity and familiarity of service providers, the regulatory authorities and of course the overall Central Bank and the financial sector, about which I have spoken on many occasions as finance spokesman for the Government. Without doubt the documents I have confirm that the health service providers — in this instance UCHG, but perhaps others — the independent quality authority and the HSE are operating in an environment that is over-familiar, highly subjective and — if we are to learn from the early lessons from our economic woes — one that could compromise far more than people’s financial well being. Clearly that confirms the need to assess governance standards in the HSE, which are clearly in the gutter, and to evaluate the independence of HIQA and the subjective nature of its work, clearly proven by these documents.

I also seek reform of the Health Act 2004 to give some level of public accountability to our health service. I need not remind the Minister of State that €15 billion of the people’s money, representing more than 50% of the tax take, is voted directly from the Minister for Finance to one individual, the chief executive officer of the Health Service Executive. That is a disgrace. The people will not put up with such a lack of accountability. I make an analogy. If a person was to spend €100,000 on renovating a house, would he or she go to the local chippy or labourer and hand him or her the entire sum before doing the work? It would not happen; there must be accountability and a project must be managed.

We need as a matter of urgency reform of the Health Act 2004 to bring the budget back under Government control to ensure some level of accountability. Regardless of what is stated on the HSE and HIQA websites, I can indicate the obstructive nature of these bodies, which can be confirmed by the Information Commissioner, Ms Emily O’Reilly. It took me some 14 months to get the information I needed on behalf of the public to assess the policy and performance of an organisation in which there is no public representative influence or involvement. It acts as it sees fit without recourse to the Government or the people. This must change.

They have savaged medical services in the context of cancer treatment services throughout the north west. I have proved that, and it took me 14 months to do so. I remember being vilified by many Members for being critical. However, as the Leader of the House, Senator Cassidy, often says, there is no wrong time to do the right thing. I appeal in earnest, therefore, to the Minister of State on the issue.

I fully appreciate there will be a set-piece reply in which it will be indicated HIQA and the HSE are doing great work on our behalf. I do not want to undermine the individuals who work in both organisations and are doing exceptionally good work. What is wrong — it is fascism in the extreme — is the level of independence of these organisations which act without recourse to the public. This cannot continue, as €15 billion of the people’s money is given to them, without a single public representative being able to query them.

This is a minute aspect of the health service, but it took me 14 months to get the proof I needed. I thank the Acting Chairman and the Minister of State for giving of their time and apologise if people believe I am overly passionate on the issue, but do not confuse passion with

a lack of determination or conviction. I know I am and have been right on this issue and now I have proof.

Minister of State at the Departments of Health and Children (Deputy Áine Brady): I welcome the opportunity to set out the position on the Health Information and Quality Authority, HIQA, and its role with regard to the Health Service Executive, HSE. The HSE was established in January 2005 under the Health Act 2004 as the single body with statutory responsibility for the management and delivery of health and personal social services in Ireland. HIQA was established in May 2007 under the Health Act 2007 and its mission is to drive high quality and safe care for those using health and social services. Key functions which enable it to fulfil its mission include the setting and monitoring of standards. Both the HSE and HIQA act under the democratically set policies of the Government which have also frequently been approved by the Oireachtas and both are fully accountable as public service organisations to the Oireachtas through the Minister for Health and Children.

A number of standards have been developed and published by HIQA to date. Examples include the national quality standards for residential care settings for older people in Ireland published in 2009 which are used as the basis for registration and inspection of public and private nursing homes and the national standards for the prevention and control of health care associated infections published in 2009 which will form the basis for hygiene inspections and audits of facilities provided by and on behalf of the HSE. HIQA operates in an open and transparent fashion and reports on its activities, including inspection and monitoring reports, are routinely published on its website. Where deficits are identified, its approach is generally one of assisting service providers in making the necessary improvements.

In 2007, at the request of the Minister, the Government approved the national quality assurance standards for symptomatic breast disease services. The standards, adopted by HIQA, were prepared by a national group chaired by Professor Niall O'Higgins which comprised experts in the major cancer disciplines, including surgery, pathology, radiology, medical oncology, radiation oncology, nursing and general practice. It also included patient advocates from the Irish Cancer Society and Europa Donna. The purpose of the standards was to improve the quality of care for women with breast disease in Ireland and address the fragmentation of services nationally at the time.

Also in 2006 the Government adopted a new national cancer control strategy, NCCP, setting out a way forward for cancer control in Ireland. On foot of the Government strategy, the NCCP was established by the HSE in 2007 and, accordingly, eight cancer centres were designated. In November that year Professor Tom Keane took up the post of interim director of the cancer programme. During his tenure significant progress was made in the reorganisation of cancer treatment services in the eight centres. Centralising breast cancer diagnosis and surgical services was the first priority. This was absolutely imperative in order to guarantee women in every region of the country the same access to the highest quality diagnosis, care and best outcomes from cancer treatment. This process was completed at the end of 2009 and all breast cancer surgical and diagnosis services are now provided in the eight centres, plus an outreach centre at Letterkenny which is linked with the services in Galway.

Between 2008 and 2009 HIQA undertook an assessment against the national standards of the symptomatic breast services at the eight cancer centres. Interim reports on compliance with the standards were produced for each hospital. These were based on a self-assessment exercise by each centre in early 2008, followed by feedback from and validation visits by HIQA in autumn that year. The interim reports which were provided for the eight hospitals and the HSE national cancer control programme indicated the aspects of the standards that were being met in each centre and where there were gaps that could be addressed. HIQA, the NCCP and each of the eight centres worked together to ensure ongoing progress was made in addressing any gaps identified before a final assessment was carried out in the eight centres in late 2009.

[Deputy Áine Brady.]

HIQA's final report on compliance with the standards was published in February. It found that at final assessment stage all the eight cancer centres, without exception, had met the fundamental requirements to provide quality care for breast cancer patients, although it recognised that in most centres there remained opportunities for improvement.

HIQA operates within a robust and comprehensive code of governance which the Minister approved and commits it to observing the highest standards of probity in the exercise of its functions. The Minister is satisfied that HIQA carries out its role in accordance with the terms of the Health Act 2007 under which it was established. She is also fully satisfied that its assessments of the eight cancer centres have at all times been entirely impartial, appropriate and focused on the fundamental goal of ensuring standards are met in order to achieve best outcomes for patients.

The Government's national cancer control strategy is being implemented entirely properly in their respective roles by the HSE and HIQA, with full accountability. Cancer patients, now and in the future in all regions, are the beneficiaries. There are no grounds for a review of the roles of the HSE and HIQA arising from their implementation of the cancer control strategy.

Senator Marc MacSharry: Minister, I do not accept anything that was said. The Minister is obviously happy with what she has been told, but I have proof that it is flawed and has been organised and engineered in the same way that Ministers from my party were told by regulators, central bankers and service providers that the banks were well capitalised weeks before the collapse. There is no ambiguity; there cannot be self-regulation or over-familiarity in the health service such as occurred in the financial sector. We saw the catastrophe to which that led. I thank the Minister of State for her response which I accept and appreciate, but I do not agree with its contents for the reason I have given. The contents of my speech bear out exactly what that is. The revealed documents pose very serious questions over the integrity, credibility and governance standards at a senior level within the HSE and HIQA. As a citizen, I intend to see to it that these questions are answered.

Deputy Áine Brady: I will take on board what the Senator said.

Acting Chairman (Senator Diarmuid Wilson): Before calling on Senator McFadden, I welcome to the Seanad a delegation from the County Cavan job initiative forum which includes Mr. Clifford Kelly, Mr. Michael Mulvey and Mr. Mel Greaney.

Water Safety

Senator Nicky McFadden: Before speaking to my Adjournment matter, I concur with everything Senator MacSharry said. It has been my experience — I will prove this — that HIQA is not independent and that the organisations mentioned are in cahoots. The Minister is not in control of the issue, particularly when it comes to doing the right thing for the elderly.

Acting Chairman (Senator Diarmuid Wilson): The Senator should continue on her own Adjournment matter.

Senator Nicky McFadden: I thank the Minister of State for being present. This matter concerns rescue services on Lough Ree, the second largest lake on the River Shannon, covering an area of over 10,500 hectares. There are two very successful fishing clubs in the Athlone area and there are similar clubs in counties Longford and Roscommon. Many companies operate passenger boats and offer pleasure cruises on Lough Ree. Some of their vessels can accommodate up to 50 people. The members of the fishing clubs and the passengers on these pleasure craft need to be able to rest assured there is a back-up rescue service on Lough Ree. Lanesboro,

a vibrant, flourishing town and great angling centre, is located on the southern end of the lake, some 25 km from Athlone.

In view of the fact that water sports have become so popular in recent years, there is a need for a lifeboat service on Lough Ree. Huge numbers of tourists, some of whom rent river cruisers, visit the area each year. A certain percentage of these individuals have relatively little experience of waterways and experience difficulties either in trying to pilot their vessels or when the weather changes.

Lough Ree yacht club is the oldest club of its kind in Ireland. It is over 240 years old and has a huge number of young people among its membership. Athlone rowing club is also one of the oldest of its kind in the country and it too has many young members. Athlone sub-aqua club is recognised nationally as being a very good club and it also caters for large numbers of young people.

There are major stretches of unprotected quays along the banks of Lough Ree. People can, and regularly do, accidentally fall into the lake. I was contacted by a local boat owner last week who informed me that he had rescued two children whose small dinghy had been blown out onto the lake from the Hodson Bay area. Due to the fact that he loves boats and often uses the local waterways, the man in question, who also owns a local hostelry, was called upon to aid these children.

A number of individuals have lost their lives on Lough Ree in recent years. Some of them could have been saved if a rescue service had been in place in the Longford-Westmeath-Roscommon area. There is a strong willingness among members of the local community in Athlone to volunteer as crew members if a lifeboat service were established. In addition, people are prepared to fund-raise in respect of such a service.

While researching this matter, I became aware that there is a very good lifeboat service for Lough Derg. This service operates out of Dromineer, 24 hours a day, seven days a week, 365 days a year, and was established by the Royal National Lifeboat Institution, RNLI, in 2004. The Lough Derg lifeboat is a B class Atlantic 21 vessel and it covers an 22 mile area from Portumna to north Killaloe and downstream to Parteen Weir. I have spoken to the Mr. Martin Smith of the RNLI, which has been informally approached by the community in the Longford-Westmeath-Roscommon area and which has indicated it is agreeable to carrying out some research into the matter before reporting back to its principal officers.

The people who live in Longford, Westmeath and Roscommon have as great a need for a lifeboat service as their counterparts who live in the Lough Erne — who also have access to a great service — and Lough Derg areas. A committee has been formed to carry out fund-raising and obtain a vessel that will assist in saving the lives of people who get into difficulties on Lough Ree.

I spoke to representatives of the Coast Guard in respect of this matter and I understand I should perhaps have raised it with the Minister for Transport. However, I was of the opinion that the Department of Community, Equality and Gaeltacht Affairs would have responsibility in this area. Mr. Chris Reynolds of the Coast Guard recognises there is a need for a rescue boat on Lough Ree. He informed me that a rescue service for Blessington Lake in Wicklow is about to be launched. In that context, I do not understand why there is no rescue service for Lough Ree, which is the second largest lake in the country.

I am of the view that the Ministers for Transport and Community, Equality and Gaeltacht Affairs, Deputies Noel Dempsey and Pat Carey, should be able to locate some funds and contribute them to the fund-raising efforts relating to the establishment of a rescue service for Lough Ree. I await the Minister of State's reply with interest.

Deputy Áine Brady: I am taking this matter on behalf of my colleague, the Minister for Community, Equality and Gaeltacht Affairs. I thank Senator McFadden for raising it.

[Deputy Áine Brady.]

Responsibility for responding to boating incidents on the Shannon navigation, including Athlone and its environs, rests primarily with the Garda Síochána which, following initial assessment, generally informs the maritime rescue co-ordination centre of the Irish Coast Guard, which is part of the Department of Transport and which tasks the appropriate “declared” rescue assets in the area, such as an RNLI or Community Rescue Boats Ireland, CRBI, lifeboat or Coast Guard helicopter. The Department of Transport exercises overarching responsibility for maritime and aviation search and rescue, SAR, services and in respect of maritime and aviation safety through its divisions and agencies, namely, the Irish Aviation Authority, IAA, and airport, port and harbour authorities.

As a division of the Department of Transport, the Irish Coast Guard has responsibility for the co-ordination of maritime SAR emergency response at sea and along the coasts and cliffs and on major inland lakes, 24 hours a day, seven days a week, 365 days a year. It has a comprehensive marine communications network covering Irish offshore and inland waterways. Since 2000 the Irish Coast Guard has expanded its marine VHF radio network to cover all the inland navigations of Ireland so any craft fitted with a VHF radio transceiver can contact it in the event of an emergency. It also has the facility to monitor emergency positions indicating radio beacons, EPIRBs, if fitted to craft and activated in emergencies. Since 2005, the RNLI and the CRBI have each established rescue stations on Lough Derg, at Dromineer and Killaloe-Ballina respectively. At present there is no declared rescue craft on Lough Ree. Athlone and Roscommon sub-aqua clubs respond when called upon, if they have members available at the time to man their craft.

Waterways Ireland, a North-South implementation body under the remit of the Department of Community, Equality and Gaeltacht Affairs, does not see itself becoming involved in this area of marine activity, particularly in light of other Departments’ responsibilities, the very professional service that is already in place and the excellent work being carried out by the volunteers of the RNLI and the CRBI. Waterways Ireland is responsible for the management, maintenance, development and restoration of the inland navigable waterway system, principally for recreational purposes. It has been given the specific responsibility by the North-South Ministerial Council of restoring the south-west section of the Ulster Canal from Lough Erne to Clones.

Senator Nicky McFadden: I thank the Minister of State for her response, the tenor of which I anticipated. I would have thought Waterways Ireland would be responsible for providing rescue services on our lakes. I ask her to bring this matter to the attention of the Minister, Deputy Pat Carey, who might then discuss it with the Minister for Transport, Deputy Noel Dempsey. I intend to contact the former because there is strong support in the community and on the part of the RNLI and the Coast Guard in respect of progressing this matter.

The Seanad adjourned at 7.50 p.m. until 10.30 a.m. on Thursday, 24 June 2010.