



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Ceisteanna - Questions . . . . .	2
Priority Questions . . . . .	2
HSE National Service Plan . . . . .	2
Substance Misuse . . . . .	8
Mental Health Services Provision . . . . .	10
Health Services Staff Remuneration . . . . .	13
Other Questions . . . . .	15
Ambulance Service Response Times . . . . .	15
Hospital Waiting Lists . . . . .	17
Health Insurance Data . . . . .	19
Proposed Legislation . . . . .	21
Topical Issue Matters . . . . .	22
Social Welfare and Pensions (No. 2) Bill 2013 [Seanad]: Order for Report Stage . . . . .	23
Social Welfare and Pensions (No. 2) Bill 2013 [Seanad]: Report Stage . . . . .	23
Leaders' Questions . . . . .	37
Order of Business . . . . .	46
Presentation and Circulation of Revised Estimates 2014: Motion . . . . .	53
Pre-European Council Meeting: Statements . . . . .	53
Topical Issue Debate . . . . .	74
Cabotage Regulations . . . . .	74
Health Services Provision . . . . .	77
HSE Investigations . . . . .	79
Thalidomide Victims Compensation . . . . .	82
Appropriation Bill 2013 [Certified Money Bill]: All Stages . . . . .	84
Social Welfare and Pensions (No. 2) Bill 2013 [Seanad]: Report Stage (Resumed) and Final Stage . . . . .	85
Pyrite Resolution Bill 2013 [Seanad]: Second Stage . . . . .	92
Planning and Development (Transparency and Consumer Confidence) Bill 2013: Second Stage (Resumed) [Private Members] . . . . .	114
Planning and Development (Transparency and Consumer Confidence) Bill 2013: Referral to Select Committee . . . . .	132

# DÁIL ÉIREANN

*Dé Céadaoin, 18 Nollaig 2013*

*Wednesday, 18 December 2013*

Chuaigh an Ceann Comhairle i gceannas ar 9.30 a.m.

*Paidir.*

*Prayer.*

---

## Ceisteanna - Questions

### Priority Questions

#### HSE National Service Plan

1. **Deputy Billy Kelleher** asked the Minister for Health when the Health Service Executive service plan 2014 is to be published; the reason it remained unpublished eight weeks after budget 2014; if there are any substantial changes with regard to the composition of the €666 million savings target set out in budget 2014; and if he will make a statement on the matter. [54386/13]

2. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health the position regarding the 2014 Health Service Executive service plan. [54128/13]

**Deputy Caoimhghín Ó Caoláin:** I seek clarification regarding a notification we received indicating that Questions Nos. 1 and 2 had been grouped.

**An Ceann Comhairle:** Priority questions may not be grouped with ordinary questions but may be grouped together.

**Deputy Caoimhghín Ó Caoláin:** We did not ask that Questions Nos. 1 and 2 be grouped. We received a notification to that effect.

**An Ceann Comhairle:** I have not received any such notification. I am sure the Minister will announce the position when he speaks.

**Deputy Billy Kelleher:** My question was tabled on the assumption that the Health Service Executive service plan would be published this week. I am disappointed that we will not have an opportunity to discuss the plan before the end of the year. The inordinate delay in publishing the plan following the publication of the budget in October is unsatisfactory. Even if one tries to stretch credibility to the nth degree, the difficulty one has with the current HSE service plan is that it is again based on a series of assumptions and premises. When savings were identified

in the original back-of-an-envelope estimate for the service plan announced by the Minister in October in the Estimates, it was evident that the Minister was again placing the health service on an unsustainable path in 2014. Officials in the Health Service Executive and the Department of Health have fought a rearguard action in the meantime and the Minister has pretended several times that he stood up to the Minister for Finance with great bravery. How can he expect to deliver health care without cutbacks to services?

**An Ceann Comhairle:** To respond to Deputy Ó Caoláin, I will raise the matter at the Committee on Procedure and Privileges this evening. According to Standing Orders, if questions are grouped, only the Deputy who tabled the first question in the group may introduce the subject.

**Deputy Caoimhghín Ó Caoláin:** In that case, the questions should be ungrouped. I am as entitled as Deputy Kelleher is to put my question.

**An Ceann Comhairle:** I will deal with the issue this evening at a meeting of the Committee on Procedure and Privileges.

**Deputy Caoimhghín Ó Caoláin:** What about the questions before us?

**An Ceann Comhairle:** I am not allowed to invite the Deputy to introduce his question.

**Minister for Health (Deputy James Reilly):** I have sympathy for Deputy Ó Caoláin. His question is as much a priority for him as Deputy Kelleher's question is for him.

**An Ceann Comhairle:** If the Minister does not wish to group Questions Nos. 1 and 2, he may answer them separately.

**Deputy James Reilly:** I am more than happy to answer them *seriatim*.

**An Ceann Comhairle:** That is fine.

**Deputy James Reilly:** To respond to Deputy Kelleher's comment on stretching credibility, I thought that was his party's forte. As for his comment about being on an unsustainable path, we have not only sustained the health service in the past 12 months but improved it, as demonstrated by the improvements in inpatient waiting times and the number of people who must endure long waits on trolleys. These figures are still too high and more needs to be done in that regard. I pay tribute again to the men and women who work in our health service on the extraordinary job they have done in the face of reductions of 20% in the budget and 10% in staff.

To respond directly to the question, the Health Service Executive-----

**An Ceann Comhairle:** The Minister has 58 seconds left to reply.

**Deputy James Reilly:** -----service plan will be laid before the Oireachtas at 10.15 a.m. In previous years, it was often presented at this time of year or later. The budget was announced earlier this year and while we face a challenging year in 2014 in terms of the finance available to us, we had very good news this morning when the ESRI issued its growth projections for the domestic economy. The country is looking forward with a real sense of hope, having emerged from the bailout. The health service can play its role in that regard.

I reject the assertion that we did not sustain a safe health service last year. Not only did we sustain the service but we made it better in terms of the impact it had on people and the long wait that many had to endure in the past. I again remind Deputy Kelleher that as recently as

January 2011 there were 569 people on trolleys. The current figure is below 300 and we have achieved a 34% reduction in the number of people who endure long waits on trolleys.

**Deputy Billy Kelleher:** There has been anything but a sustained improvement in the health service. For example, the number of people waiting for procedures has increased incrementally. The Minister referred to a 34% decrease in the number of people waiting on trolleys, and I accept that is the case, but he overlooks the fact that more than 380,000 are unable to see a consultant in a timely fashion. He informed me at the start of the year that he was not too concerned about this figure, as 380,000 people could be-----

**Deputy James Reilly:** I did not say that. The Deputy should correct the record.

**Deputy Billy Kelleher:** -----dealt with quickly given that more than 200,000 people are seen by consultants every month.

**An Ceann Comhairle:** The Deputy should ask a supplementary question.

**Deputy Billy Kelleher:** The problem is that there has been an alarming increase in the number of people waiting for consultants as those seeking to see consultants face inordinate delays. The Minister speaks of sustainable health services. He should acknowledge that inherent problems remain in the health services.

**Deputy James Reilly:** The real problem is that the Deputy does not recognise the truth and engages in fantasy. I never said any of the words he uttered.

**Deputy Billy Kelleher:** The Minister said the figure was not a big deal.

**Deputy James Reilly:** The Deputy should allow me to finish. We discovered that 380,000 people were on the waiting list. This is an issue that the Fianna Fáil Party in government ignored because it did not want to count the number waiting or tell people the truth. We were up-front in stating how many people were waiting. I stated it was an awesome figure but that it had to be put in context because 200,000 outpatients were seen every month. We will deal with this matter in the same way as we dealt with that relating to inpatient waiting times, namely, by catering for those who have been waiting longest first. There are no longer 386,000 on the list. Since we first discovered this issue in March and counted and validated the numbers involved, there has been a huge reduction. We will be dealing with that issue in the context of a later question. I intend to deal with the service plan now.

The year ahead will be challenging. I am pleased that we were able to obtain some extra money during the course of the consideration of the validation process relating to some of the figures involved. This will reduce the need to examine the medical card issue. Frankly, I did not believe that was possible. I reassure Deputies that a figure of €23 million, not €133 million, will be sought on the probity side. This will allow people who are possession of medical cards to rest assured that those who are entitled to them will remain so entitled, that there will be no change to the eligibility criteria during the coming year and that the normal probity measures will be used when validating medical cards-----

**An Ceann Comhairle:** The Minister must conclude. I will allow him to come back in.

**Deputy James Reilly:** -----to ensure people have not left the country or moved on and that doctors are not being paid for services they are not delivering. I wish to make an important point.

**An Ceann Comhairle:** No, the Minister cannot do so. We are over time. I will allow him to come back in.

**Deputy James Reilly:** I accept that, but this is a critical point.

**An Ceann Comhairle:** I know it is, but the Minister can contribute again. There is a limit of one minute on these contributions.

**Deputy Billy Kelleher:** As is the case each year, we are starting off by denying the reality. The Estimates relating to the two most recent budgets presented to this House were wholly unsustainable from the day they were published. I knew that, as did the Minister and everyone else. Obviously, however, those who operate the system were wandering around in a world of fantasy and pretence.

**An Ceann Comhairle:** Perhaps the Deputy might ask a supplementary question.

**Deputy Billy Kelleher:** In the aftermath of drilling down, the Minister has accepted that €130 million in savings could not have been achieved on the probity side in the absence of the wholesale withdrawal of medical cards from swathes of vulnerable people. Now he is clapping himself on the back for reducing that figure. Either way, he must accept that from the beginning of 2014 he will be implementing cuts which will have a detrimental impact on front-line services and that a Supplementary Estimate will have to be introduced as some point. He is aware of that fact, even before 2014 begins.

**An Ceann Comhairle:** Clocks were installed in the Chamber to allow Members to see how much time they had for their contributions.

**Deputy James Reilly:** We had this discussion at a meeting of the select committee. The Deputy would like the world to believe that during his party's time in government no Supplementary Estimates were introduced in the area of health. Fianna Fáil-led Governments more than quadrupled the health budget between 1997 and 2009, but in 2010 the then Minister for Health and Children brought forward a whopping Supplementary Estimate of €595 million. The Deputy refers to Members on this side of the House engaging in fantasies. However, he has no sense of reality at all. What he is good at is the old Charlie Haughey trick, that "If I say it often enough, it becomes so." That is not reality.

**Deputy Kathleen Lynch:** It is reminiscent of Pol Pot. History begins now.

**Deputy James Reilly:** Exactly. The reality is that we are facing a very challenging year. The economy is recovering, but we must continue to consider ways in which we can operate more efficiently. I again congratulate the people who work in the health service on the great job they are doing and acknowledge that waiting times have been reduced. Hundreds of thousands of people had been awaiting inpatient treatment for longer than one year when I entered office. By the end of the year, it is hoped no one will be obliged to wait longer than eight months for such treatment. We will deal with this matter again later.

**Deputy Caoimhghín Ó Caoláin:** Will the Minister accept that it is absolutely objectionable-----

**An Ceann Comhairle:** Will the Deputy introduce question No. 2? It is a separate question.

**Deputy Caoimhghín Ó Caoláin:** I am dealing with question No. 2. Will the Minister ac-

cept that it is most unacceptable that Opposition spokespersons are dependent on purposeful leaks through the media in order to obtain some sense of the detail contained in the national service plan? I presume that detail will be formally announced later this morning. We do not have access to the relevant information. Such information should have been shared immediately on sign-off, particularly in view of the fact that it was leaked to the media yesterday in order that it might appear on the front pages of the newspapers this morning. We most certainly should have been made aware of the detail of what was contained in the plan. Does the Minister accept that to be the case and that the detail of the HSE's national service plan should have been announced in this Chamber?

The Minister has confirmed that €133 million, not €113 million-----

**An Ceann Comhairle:** The Deputy can come back in when the Minister has replied.

**Deputy Caoimhghín Ó Caoláin:** -----and, therefore, that-----

**An Ceann Comhairle:** The 30 seconds allocated is for Deputies to introduce their questions rather than to make speeches.

**Deputy James Reilly:** The HSE's national service plan will be placed before the Oireachtas, as required, at 10.15 a.m.

**Deputy Joan Collins:** After it was leaked to the newspapers and "Morning Ireland".

**Deputy James Reilly:** The plan took quite some time to prepare on foot of the challenges we faced. However, we have managed to address many of the main issues of concern. This does not mean that we are going to have an easy year. In fact, it is going to be a very difficult year, but we will continue to work hard to implement the plan. I reiterate that I do not wish services to be cut; rather, I wish to see the cost of services being reduced. That is what the Government is about.

In the context of question No. 2, the service plan is comprehensive. I am prepared to offer those in opposition a briefing on it by the HSE. Obviously, the HSE will be briefing its own staff on it today.

As regards the plan, we have done as good a job as possible in protecting existing services and developing new ones. I look forward to implementing the plan which is heavy on reform during the course of the coming year. We are using the good offices of the HSE to bring forward many of the reforms on an administrative basis in order that the legislative process will have an opportunity to catch up. In addition, we will be in a position to learn from the administrative side about some of the fine tuning which may be necessary in the context of the legislation we will ultimately introduce.

**Deputy Caoimhghín Ó Caoláin:** The director general of the HSE, Mr. Tony O'Brien, has calculated that 225,000 medical cards equates to €44 million in cuts under the so-called probity heading. If one extrapolates from this on the basis that the Minister had adhered to the €133 million cut, some 675,000 medical cards would be taken back in 2014. The reality is that on the basis of the director general's calculation and the figure of €23 million, there will be a reduction of between 112,000 and 115,000 medical cards next year. What I am saying is based on figures contained in the director general's letter to the Minister. How can the Minister state what is being done is a success? The people involved are already suffering. I am aware of this

as a result of individual cases on which I have made representations. The Minister cannot take any comfort from the fact that there is going to be untold suffering, of which evidence is already emerging, in this area. Regardless of what the eventual figure might be, what are the prospects for the people involved in 2014? What can he say that will offer them any comfort as they face the loss of their medical cards in the coming year?

**Deputy James Reilly:** I do not know whether there is something wrong with the air filtration system in the House. Again, a Deputy opposite is stating I referred to something as being a success. I never used that word; rather, I stated it was going to be a very challenging and difficult year. I never described anything as a success.

**Deputy Billy Kelleher:** The word was on the tip of the Minister's tongue.

**Deputy James Reilly:** If, in the context of the substantive question posed by Deputy Caoimhín Ó Caoláin, one averages out the cost of a medical card at €1,000 and if one is purely going to remove medical cards on that basis, it might not be unreasonable to assume that 113,000, 115,000 or 133,000 medical cards might be taken back. Of course, there will be many other factors involved when the implementation process takes place. As I have stated elsewhere, I know what probity means and I am aware that it does not involve changes to policy or eligibility. Probity means ensuring that those who are entitled to medical cards have them and that those who are not entitled or are no longer entitled to them do not have them. It also means ensuring that the fees claimed by doctors, pharmacists and dentists are appropriate, right and proper.

I expressed concern at the outset about the possibility of achieving that level of saving with just a probity measure, and I made it very clear that there would not be a policy change. I can stand here and, with absolute certainty, reassure people who have medical cards, which is nearly 2 million people, that they have nothing to worry about.

**An Ceann Comhairle:** The Minister is over time.

**Deputy James Reilly:** The normal probity measures will continue in terms of regular checks. If we did not do that, we would be held to account for it in the Committee of Public Accounts.

**Deputy Caoimhghín Ó Caoláin:** Does the Minister not accept that it is unacceptable that the opposition spokespersons on health will not have the opportunity to address the detail of the national service plan until after its introduction and implementation from 1 January next? The plan is for the calendar year of 2014.

With regard to provision for the roll-out of the bilateral cochlear implant programme, speculation in the media this morning cites a figure of just over €3 million. Is that not on the low side, given the possible cost of introducing the bilateral programme? How many young people will be seen in the course of 2014, given that the window for young people who are challenged by hearing loss is limited as time passes? There is provision of approximately €500,000 in respect of narcolepsy and the victims of Pandemrix. What services will that provide?

To conclude, it is really unacceptable that the Minister is circulating this plan at 10.15 this morning. We should have had the plan at 10.15 p.m. last night, at the latest, to prepare for detailed questions to the Minister.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Caoimhghín Ó Caoláin:** As for the Minister's claim of success, he should read the newspapers. He does not have to say it when his spin doctors are suggesting that this was a victory for the Minister over the Labour Party-----

**An Ceann Comhairle:** This is Question Time, Deputy.

**Deputy Caoimhghín Ó Caoláin:** -----with that party claiming, in turn, that it was a victory over the Minister. The Minister should look to his colleagues beside him who are quoted in the newspapers this morning.

**An Ceann Comhairle:** From now on I will strictly adhere to the rules. It is unfair to other Deputies if somebody takes up all the time. We have spent 22 minutes on two questions, and we are supposed to spend six minutes on each question. The Minister has two minutes to answer and there is one minute for a supplementary question by a Member after the reply. That is the rule. Otherwise, it is unfair to other Deputies whose questions are not reached. The Minister has one minute to respond.

**Deputy James Reilly:** With regard to the last point raised by the Deputy, who manages to work himself up into a great state of indignation, both parties are very concerned about any distress being caused to medical card holders regarding uncertainty about their cards, and both parties were eager to address this. I sought the validation process, as the line Minister, because I am closest to it and understood that there would be real difficulty in achieving the type of saving that was apportioned. Following a validation and examination by the Department of the Taoiseach and the Department of Public Expenditure and Reform, with my colleague, Deputy Howlin, we concluded that this would not achieve the types of saving mentioned, so we have approached it from a different point of view. There is no question of victory of one over the other. This Government is here to serve the people. It is not about trying to score points.

**An Ceann Comhairle:** We will move to Question No. 3 from Deputy Maureen O'Sullivan.

**Deputy Caoimhghín Ó Caoláin:** What about the bilateral cochlear implant programme? Is the Minister in a position to answer that?

**An Ceann Comhairle:** No, he is not. Deputy Maureen O'Sullivan has been called.

### **Substance Misuse**

3. **Deputy Maureen O'Sullivan** asked the Minister for Health the rationale behind having those in addiction put into mental health services as opposed to general health services; the resources that are being considered for persons who will be impacted by the possible reduction of tablets when related new legislation is implemented, as there are concerns among front-line workers of increased risks to those currently misusing tablets; and if he will make a statement on the matter. [54126/13]

**Deputy Maureen O'Sullivan:** This question is about addiction and substance misuse and abuse and the general health issues in that area, as opposed to the mental health issues. In particular, I refer to the forthcoming legislation on the tablet issue, which is very welcome, and the planning implications for those who are currently abusing tablets.

**Minister of State at the Department of Health (Deputy Alex White):** I take it the Deputy

is referring to persons who have drug addiction problems. Persons who have such difficulties, whether due to misuse of prescribed medicines or the use of illicit drugs, can access treatment through their GP or their local drug addiction service. In accordance with “A Vision for Change”, the national mental health policy, the mental health services are responsible for providing services to persons who have both substance abuse and mental health problems. Mental health services are available on referral from a GP or through emergency departments.

Medicines which have a high potential for misuse are controlled under the Misuse of Drugs Acts. A person who has a controlled drug in his possession for the purpose of sale or supply is guilty of an offence. My Department is finalising major amendments to the misuse of drugs regulations. The proposals include stricter prescribing and dispensing controls on certain prescription drugs which are being traded illicitly, including benzodiazepines and Z-drugs, as well as creating the offence of unauthorised possession of such drugs. Due to the complexity of the draft regulations, it has been necessary to have two rounds of consultations with stakeholders and interested parties. Arising from the latest consultation process, the draft regulations are being reviewed. When this review is completed, the Government’s approval will be sought to notify the draft regulations to the European Commission and member states under the technical standards directive.

It is intended that the draft regulations will be so notified before the end of the first quarter of 2014. The EU notification period may take up to three months to complete. Following its completion, the Government’s approval will be sought to the relevant statutory instruments. The Deputy referred to the need for additional treatment services for persons who may be affected by the proposed regulations. I understand her point and it is something I will attend to and keep under review.

**Deputy Maureen O’Sullivan:** There is no doubt there have been changes in the drugs scene. For many years drug abuse equalled heroin abuse, before it moved on to cocaine abuse. Then there were the head-shop products, and recently we have seen an influx of snow blow and high-strength cannabis. Beneath all of that there is increasing use of tablets, both licit and illicit. The national drug-related deaths index showed that the generic group of benzodiazepine drugs are those most commonly found in polysubstance poisoning deaths. In the course of the consultations, front-line workers expressed their concern that when the legislation is introduced, welcome as it is, there will be a need to consider treatment services for those who are caught up in that tablet scene. That is the point of my question. There is quite a long lead-in to the legislation, and the European Commission also must express its view on it. It would be useful to commence planning for the services that will be provided for that group.

**Deputy Alex White:** The additional time that has been afforded to me in the consultation process will certainly be used to address some of the issues the Deputy raised. She is correct that some of the people involved, including project workers, have expressed certain concerns to me. While they support the changes and the new regulations I intend to introduce, there are ancillary issues which they wish to have addressed. I understand their point and I will continue to meet and engage with them.

In addition, the Deputy will be aware that next January we will set up a new consultative process across the system for bolstering the national drugs strategy. Previously, we had certain processes that worked well. They had to be reviewed, and we have done that. A new national co-ordinating committee will be set up in January and on 16 January I will host a conference to which all of the interested parties will be invited, including project workers, national drugs

task forces and people involved nationally and locally. That will be an important focus for us. The issue the Deputy raises, which she has raised previously in the House, will certainly be addressed at that meeting, as well as the issue of alcohol in the context of that forum.

**Deputy Maureen O’Sullivan:** When people have alcohol problems it is seen as a general health problem. There are people with mental health issues who take up substance misuse, which exacerbates the mental health problem. There are also people who take up substance misuse and that develops into mental health problems for some, while for others it does not. I have been involved in a particular area, which includes those who are active in addiction who have suicidal ideation. It is the Oasis Deora Counselling Centre, and I am on the board. It is the only centre that will counsel those who are active in addiction and have a mental health issue or suicidal ideation. It is very difficult and extremely challenging counselling, but I have no doubt that it has prevented some people from going further with suicidal ideation. The funding for that organisation is minuscule compared with the funding for other organisations involved in suicide prevention. That centre is the only one that will counsel people who are active in addiction and will provide crisis counselling at the point at which people need it.

**Deputy Alex White:** I value the Deputy’s insights in that regard and I take her point about funding. We are doing everything we can to ensure there is adequate funding across the board, both through the HSE addiction services and also in the form of the funds for which I, as Minister of State, have responsibility.

*10 o’clock*

I agree with the Deputy’s point regarding the interaction between mental health services and drug treatment services. We will have an opportunity to address those issues early in the new year.

### **Mental Health Services Provision**

4. **Deputy Billy Kelleher** asked the Minister for Health the way in which community mental health services will be developed in 2014; the new funding being provided for same; the number of new posts this will support; and if he will make a statement on the matter. [54387/13]

**Deputy Billy Kelleher:** The Minister of State, Deputy Kathleen Lynch, spoke about mental health services recently in the Seanad. There is no doubt that this area has been the Cinderella of the health system for many years. There is a commitment to A Vision for Change, but what is needed now is the financial commitment to implement it. While the Minister of State has made valiant efforts, she is not receiving a great deal of support from some of her colleagues in this area. We must have clarity as to how many people will be recruited in 2014 and 2015 to make up the shortfall left by previous years of underfunding.

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** I have never found there to be a lack of support for my endeavours from any of my colleagues, including Opposition Members.

**Deputy Billy Kelleher:** The Minister of State threatened to resign at one point.

**(Deputy Kathleen Lynch):** The current economic environment presents a significant challenge for the health system generally in delivering services. However, mental health is being

treated as a priority in so far as possible and I am pleased that a further substantial ring-fenced allocation will be provided next year. The announcement in budget 2014 of €20 million for mental health is in line with a commitment in the programme for Government to accelerate the pace of change to develop a modern, patient-centred and recovery-orientated mental health service. Despite serious resource pressures overall, funding of €90 million has been made available since 2012 up to the end 2014 that is specifically earmarked for mental health and suicide prevention.

This funding will enable the Health Service Executive to continue to develop and modernise mental health services in line with the recommendations in A Vision for Change and allow for the recruitment of between 250 and 280 additional staff to enhance adult community mental health teams, child and adolescent mental health teams, and specialist mental health teams, including in the area of elder psychiatry. The recruitment process for these new posts will commence in the first quarter of 2014, with all posts targeted to be in place by the fourth quarter

The HSE's national service plan for 2014, which has been submitted to the Minister for Health, outlines the types and volume of health and personal services to be provided in 2014 within the overall level of funding provided. I expect the plan to be published today.

**Deputy Billy Kelleher:** The problem here is the language being used and the way in which the figures are being massaged. There has been underfunding in the past two years; that is a fact. The Minister, Deputy James Reilly, stole the allocation for mental health, taking it into the big black hole of his Estimates.

**Deputy James Reilly:** The Deputy is spouting fantasies.

**Deputy Billy Kelleher:** Commitments were given that there would be an accelerated recruitment process and the necessary staff would be in place, that is, whole-time equivalents dealing with people in vulnerable positions. That has not happened. The Minister of State is playing catch-up from a position of absolute underfunding in recent years.

**Deputy James Reilly:** That is precisely right.

**Deputy Alex White:** I wonder why we are in that position.

**Deputy Billy Kelleher:** It was the Minister who robbed €35 million from the mental health budget.

**An Ceann Comhairle:** I remind Deputy Kelleher that this is Question Time. Does he have a question?

**Deputy Billy Kelleher:** It was the Minister who took that money. We have had enough of hearing the same old nonsense on this issue.

**An Ceann Comhairle:** The Deputy must put his question.

**Deputy Billy Kelleher:** Will the Minister agree that he is engaged in absolute nonsense? The fact is that the mental health budget was used for reasons other than those identified. The moneys were supposed to be ring-fenced for a recruitment process for mental health services, but that did not happen.

**Deputy Alex White:** It should have been done years ago.

**An Ceann Comhairle:** The Minister of State to respond, although I am not sure what is the question.

**Deputy Kathleen Lynch:** It would appear that undue influence is being brought to bear on Deputy Kelleher on this issue, and it is very recent.

**Deputy Derek Keating:** It might be also long lasting.

**Deputy Kathleen Lynch:** The 890 posts that were provided to develop our mental health services in 2012 and 2013 are indisputable facts. Those people are in their posts. The Deputy will know that I take a very clear view of the world. These people's salaries have to be paid, and they are salaries commensurate with the professionalism of those staff and the very specific jobs they are doing. How does the Deputy suppose their salaries are being paid?

There are particular areas where we have a difficulty in recruiting people. As I said, we will recruit an additional 250 to 280 staff in 2014. In my first year in office we recruited 414 staff, of whom 96% are in post. There is a difficulty in filling the remainder simply because qualified persons are not available, but we continue the process. The Deputy's problem is that he is reluctant to allow the facts to get in the way of the story.

**Deputy Billy Kelleher:** It is important to look at what the Minister of State inherited in terms of the number of people working in mental health services and where we are at in this regard at the end of 2013. By any credible stretch of the imagination, the bottom line is that there are far fewer people working in the area of mental health than there were before. That is a fact. Taking credit for recruiting people is untenable when the large numbers who have left mean there are actually now fewer people dealing with the area of mental health. That has come about because there was no aggressive recruitment process in 2011 and 2012. The Minister of State is now attempting to make up for the shortfall.

**Deputy Kathleen Lynch:** The Deputy is wrong and so is his adviser.

**Deputy Billy Kelleher:** That is what is happening.

**An Ceann Comhairle:** Does the Deputy have a question?

**Deputy Billy Kelleher:** My question is whether the Minister of the State will again threaten to resign in light of the failure to secure the full complement of staff necessary to implement the commitments given in the programme for Government and A Vision for Change.

**Deputy Kathleen Lynch:** I will deal with the last fantasy first. I never threatened to resign and I never would; that is not what I do. I have a job to do and I intend to do it, despite the fact there is so much opposition to the implementation of A Vision for Change. I have found in the past two years that everybody is in favour of that plan until it is happening in their area, when suddenly it is the wrong way to go and the wrong thing to do.

We are putting in place a modern system. It will not be the same system as we had before because we need a different skill mix. Nurses will be needed, but we also need physiotherapists, occupational therapists, speech therapists and a range of other people with the types of skill mixes we did not have in the past. If I were Deputy Kelleher I would hang my head in shame. A Vision for Change was published in 2006, but the first serious move to implement it was in 2011.

**Deputies:** Hear, hear.

### **Health Services Staff Remuneration**

5. **Deputy Caoimhghín Ó Caoláin** asked the Minister for Health if he will establish a time-framed independent inquiry into the practice of top-up payments to senior executives at section 38 entities; the steps he has taken to impress on all such bodies that these payments must cease with immediate effect; if recoupment is being pursued; and if he will make a statement on the matter. [54127/13]

**Deputy Caoimhghín Ó Caoláin:** The recent focus on salary top-ups was not just about the irregular practices at the Central Remedial Clinic. The Health Service Executive and the Department themselves have, in some cases, approved top-ups of a very substantial nature. Does the Minister agree that a timeframed independent inquiry into such practices at all section 38 entities is now required?

**(Deputy James Reilly):** I have initiated this process arising from the Health Information and Quality Authority report into practices at Tallaght hospital. I requested that the Health Service Executive conduct an internal audit of all section 38 funding recipients. As a result of this audit, as has been reported extensively, a considerable number of funding recipients have been found to be in breach of Government pay policy with regard to the remuneration of senior staff. I have requested urgent action to ensure every agency is fully compliant with Government pay policy.

The HSE has a team of senior managers following up with individual agencies. The director general of the HSE met with the chairpersons and chief executive officers of all section 38 organisations last Thursday. That meeting focused on the requirement of the board of each agency to strengthen governance standards. Also agreed was a new requirement to furnish the HSE with a compliance statement from the current financial year and for each year thereafter. This statement will have to be approved by the board of each agency on an annual basis, signed by the chairman and another director on behalf of the board, and submitted to the HSE together with the organisation's annual audited accounts. This annual compliance statement will be required in addition to the annual service agreement between the agency and the HSE.

Further and separate meetings are being held by senior HSE managers with all of the disability organisations and hospitals concerned this week to ensure that a clear plan to achieve full compliance with health sector pay policy is developed with each agency.

The question of recoupment will be dealt with on a case-by-case basis. As indicated, the HSE is urgently meeting individual agencies and it is important that due process is followed. I have no plans to establish an independent inquiry into the practice of top-up payments to senior executives at agencies funded under section 38 of the Health Act 2004.

**Deputy Caoimhghín Ó Caoláin:** Time will show that an independent inquiry was required because one of the first things that has to be established or re-established here is public trust and confidence, which has been seriously dented. I believe the issues involved are more than just the top-ups themselves, although they are the most vexatious. We have also seen exposed the unusual arrangements in regard to pensions and other issues. However, if we do not know the questions, it is very difficult to get to the core of what is involved. An independent inquiry will

establish a number of irregular practices and, hopefully, contribute to their eradication.

In the context of all of this, and of the efforts the Minister has just outlined to us, has he ensured that patients of these entities are not to be further penalised by further Government funding cuts in the HSE service plan to be announced later this morning?

**Deputy James Reilly:** It is important to point out the HSE has been investigating this issue and it is the body which revealed what we now know. There are further revelations that will become apparent when it is finished its investigation. The investigation will not be a finite thing that suddenly stops and that is the end of the matter. As I have already said, new arrangements are being put in place to ensure people remain compliant. The HSE is taking this very seriously. It has 17 senior management staff involved in pursuing these organisations to ensure public pay policy is in place. Equally, as we know, people who give charitable donations want to be assured that those donations will be used for the purposes for which they made them. To do otherwise is to betray public trust in the most shocking way.

**Deputy Caoimhghín Ó Caoláin:** While the Minister is leaving it to an evaluation on an individual basis, I believe he should signal in the strongest possible terms that recoupment is indeed a target of the exercise. I believe the funds should be restored to their intended target area, which is the services to the patients involved. Again, I am very concerned that it is the HSE on which we are depending in this instance given the top-up arrangements within the HSE put a question mark as to its suitability in this regard. I understand that it can certainly do the initial work but an independent inquiry is, I believe, the way to go.

In the spirit of the day that is in it and the times we are living in, does the Minister agree with me that the most important people in all of this are the patients who avail of the vital services provided by section 38 bodies across our health services? Will he join with me, as I am sure he and all colleagues in the Chamber will, in a public appeal to citizens to maintain their strong support for all charitable organisations which are providing most important services to our people, services that simply would not be there but for the generosity of the Irish people? They cannot afford to take the hit that is currently being recorded. I ask everyone to be of one voice on that.

**Deputy James Reilly:** As the Deputy will know, I have already made that appeal very publicly on the airwaves and television screens of the nation. The Irish people have always been very generous, I suppose because of a deep and dark past and the experience we had two centuries ago. Even in hard times, they were never found wanting in giving to others who were less fortunate than themselves. I certainly appeal to the generosity of people and ask them not to be put off by these recent events. These matters will be resolved. The last people we want to suffer are those for whom the charitable donations were made in the first instance. I know, having spoken to them, that many of the organisations have suffered a reduction in contributions so I would ask people to think again and perhaps to give as they have before.

In regard to the whole area of an independent inquiry, I believe that is not necessary at this juncture. However, I would never rule out such a thing in the future if it became necessary as a result of the investigations being carried out by the HSE.

## Other Questions

### Ambulance Service Response Times

6. **Deputy Denis Naughten** asked the Minister for Health the progress that has been made in the Health Service Executive west region since the introduction of standardised ambulance response times; the steps being taken to improve ambulance response times in the region; and if he will make a statement on the matter. [53981/13]

**Deputy Denis Naughten:** Fewer than one in two ambulances in the west are meeting the HIQA target at the scene of a life-threatening incident. The west has the only three HSE-identified ambulance black spots in the country. It seems no provision will be made in the HSE service plan to provide manpower to address the staff shortages at those locations in the coming year.

**Deputy James Reilly:** Response times vary significantly regionally, and reliance on response times alone to measure pre-hospital emergency services is of limited value. We are, therefore, moving to complement time-based indicators with clinical outcome indicators for better assessment of modern ambulance work.

As the Deputy knows, the west is geographically challenging, with 61,500 emergency and urgent responses in Galway, Mayo and Roscommon alone in 2012. This challenge is, however, being met through staff development, fleet and control investment and resource management. Steps to improve response times include faster mobilisation, improved dispatching, better use of community responders and the roll-out of on-duty rostering in 2014.

In addition, the intermediate care service, which provides inter-hospital and retrieval services, freeing up existing emergency resources for emergency calls, is being expanded. Eight new intermediate care ambulances and over 70 staff were provided in the west and north-west in 2013. The availability of the emergency aeromedical service also frees up ambulances, with an estimated land resource gain of 560 vehicle hours and 1,100 crew hours a year. A recent review of this shows it is having a very positive effect and should be continued.

In 2014, Castlebar ambulance control will move to the national control centre at Ballyshannon, so crews can be dispatched across the region. The national ambulance service will also deliver a more dynamic service where ambulances move to different locations during a shift, based on predictive analysis of the best location at any time. This will ensure better geographical cover, response times and patient outcomes. The national ambulance service also proposes to undertake a capacity review for current and future needs in each region, including the west. This will examine areas including staff numbers, skill mix, which is very important, and resource locations, and will inform the further development of pre-hospital care in the west and across the State for the benefit of communities and patients.

**Deputy Denis Naughten:** I thank the Minister for his response. The review is welcome. The problem is that this is kicking the can down the road. At present, in the west, 13 ambulance shifts a month are being taken off the road because there are not the staff to man those ambulances. We have the only three HSE-identified ambulance black spots in the west at Tuam, at Mulranny and at Loughglynn, County Roscommon. We need 30 staff to man those effectively. Can the Minister indicate that those resources will be made available in 2014?

**Deputy James Reilly:** The ongoing development of the national ambulance service is providing a robust platform to continue to improve the performance against response time standards. The reality is we are looking at a very new type of service. It is not just the ambulance arriving-----

**Deputy Billy Kelleher:** It is not arriving.

**Deputy James Reilly:** -----it is the ability of the paramedic or the first responder to arrive. In addition, the air ambulance service is a huge support for the on-ground services.

I do not have information on the figures to which the Deputy alludes. We will investigate further and come back to him in response to the specific issue he raises about Tuam, Mulranny and the third place he mentioned.

**Deputy Denis Naughten:** Will the Minister look into one other matter for me? Within the past month, on one particular day, all of the Roscommon ambulances were parked outside Galway University Hospital, along with those that provide cover in Roscommon - the Ballinasloe, Castlebar and Loughrea ambulances. Every single one of them was parked outside Galway University Hospital on one day in the past month. In light of that, where stands the commitment given to the people of Roscommon at the time of the closure of the accident and emergency department that they would have adequate ambulance cover to replace that department?

**Deputy James Reilly:** I will have to check out why that would or could happen. In the past a similar situation arose in Dublin, with up to eight ambulances parked outside hospitals at a given moment with people being tended to by the paramedics and some hospital staff because there was no room in the emergency departments. Thankfully, that situation does not arise any more. I will find out why all the ambulances the Deputy mentioned could have been parked outside for a long time.

**Deputy Denis Naughten:** I am concerned that the geographic area is left without cover.

**Deputy James Reilly:** That would not be acceptable. We have to find out why, once the ambulances have arrived at a hospital, they are not released immediately to be available for any other emergencies that might arise. Ambulances should not be left parked outside hospitals for any length of time. That is not their purpose or function. We have the technology to forewarn and give all the clinical details over the radio before the ambulance ever hits the hospital in order that the staff at the hospital are aware of the clinical problems with which they will be presented and be in the best position to help the patient concerned.

**An Ceann Comhairle:** The time has expired. We will move on to question No. 7.

**Deputy Caoimhghín Ó Caoláin:** May I briefly-----

**An Ceann Comhairle:** Deputy Ó Caoláin should read the Standing Orders. I am applying the new Standing Orders for Question Time. Each Deputy has up to 30 seconds to introduce the question. The Minister has two minutes to respond. There is a minute for a supplementary question from the Deputy who has asked the question. The Minister replying has a minute to reply to that supplementary question. There is a further minute if the Deputy so wishes and the Minister has a minute. That is six minutes. That is the idea for trying to get through the questions. There are other people here waiting to ask questions. It is not my fault. The time is up.

## Hospital Waiting Lists

7. **Deputy Billy Kelleher** asked the Minister for Health the action he will take to reverse the 18.6% year-on-year increase in day case and inpatient waiting lists; and if he will make a statement on the matter. [54086/13]

**Deputy Billy Kelleher:** What action will the Minister take to reverse the 18% increase year-on-year in inpatient waiting lists? The Minister has laid a heavy emphasis, and staked his career, on driving down waiting lists. This waiting list, however, is going in the wrong direction. What specific measures will be included in the HSE service plan, which is being announced elsewhere at the moment, to address and arrest the increase in those waiting lists?

**Deputy James Reilly:** In July 2011, when the special delivery unit, SDU, was set up, a total of 6,277 patients were waiting more than nine months for inpatient or day-case treatment. By the end of 2012, that number had been reduced by 98% for adults waiting over nine months for inpatient or day-case treatment and by 95% for children waiting over 20 weeks for such treatment. That is a fact. As an older lady said to me in my previous life as a GP, “The truth is not fragile, Doctor. It won’t break.”

The early months of 2013, as anticipated, brought higher levels of emergency department admissions which, in turn, had a knock-on effect on scheduled care. However, the SDU, together with the National Treatment Purchase Fund, NTPF, and the HSE undertook a range of measures to address this, working closely with hospitals to analyse performance, to agree action plans and extra support as necessary and to ensure hospital capacity is being optimised.

Since August we have reduced the number of adults waiting over eight months by 78% from 6,800 on 22 August to 1,485 on 12 December. This represents a reduction from 13.5% to 3.2% in the total number of adults waiting for treatment. Similarly, we have reduced the numbers of children waiting over 20 weeks by 35%, from 883 to 576, in the same period. This represents 1.2% of the total number of children awaiting treatment. All hospitals have commenced necessary action plans to get as close as possible to the national wait time target of eight months by 31 December, and further decreases in the numbers waiting are anticipated before year end. The work continues even up to the end of the year, after Christmas, to ensure that those waiting for treatment get it and those who have been waiting the longest are treated first.

**Deputy Billy Kelleher:** I accept that the truth is not fragile and will not break, but the Minister’s accountancy, logarithms and algorithms are very fragile because they simply belie the fact that there is an increase in the number of people waiting on day-case and inpatient waiting lists. Responses to recent questions that we have tabled and the publication by the NTPF of waiting lists show an increase in the number of people on waiting lists. The Minister can look at it whatever way he likes; even the number of children waiting has increased dramatically year on year. We waited months for the September figure to be published. We had to drag it out of the Department and eventually it was published. The Minister can deny for a while, but not forever, that there is an increase that has to be addressed in the context of the HSE service plan being announced elsewhere. Otherwise, people will wait longer than they already do.

**Deputy James Reilly:** The Deputy seems to be caught in the old ways of thinking. He assumes it is a simple one-and-one-is-two job.

**Deputy Billy Kelleher:** One and one always make two.

**Deputy James Reilly:** The situation requires a change in the way we do business. If we do the same things the same way the whole time there will be no change. That is what went on for 14 years when the Deputy's party was in government, despite its quadrupling the spend on health. With reduced funds and staff, we are making significant improvements. The Deputy is simply wrong. The fact is that the waiting lists have been reduced enormously. The Deputy chooses to compare September figures, but let us look at the end of December and we will talk about this in the new year. I do not know where he gets his 18.6% figure because it does not relate to any information I have.

Even as we speak the work is ongoing. Yes, it presents a real problem and a challenge because, unlike the Deputy, we counted the number of people awaiting an outpatient appointment and we are reducing those numbers. As a consequence we will need more inpatient treatment, which will put the pressure on, but the system is dealing with that in an equitable and fair way, looking after those who are waiting longest first, once the urgent cases and cancer cases have been dealt with.

**Deputy Billy Kelleher:** I will give the Minister one simple statistic. In September 2013 there were 49,496 people on the inpatient and day-case list. If the Minister does the sums, as he claims to be good at doing, that is up 7,764 on the same month in 2012, which is 18.6%. There are increases in certain areas. In Our Lady's Hospital for Sick Children, Crumlin, and Children's University Hospital, Temple Street, inordinate delays are developing. That is happening as we speak. I am highlighting the issue. I am not trying to pretend I am a better mathematician than the Minister or otherwise, but the statistics and the figures do not lie and the NTPF's published figures show an incremental increase in day case and inpatient waiting lists.

**Deputy James Reilly:** The Deputy can choose the month of September if he wishes. We are now in December. I have met Mr. Ian Carter, who is in charge of the hospitals and inpatient-----

**Deputy Billy Kelleher:** The figures will be worse if I choose December.

**Deputy James Reilly:** I have the up-to-date figures and they are not remotely like those the Deputy talks about. There have been huge decreases in the numbers of people waiting.

When we came into power in 2011 there were tens of thousands of people waiting longer than a year. Some had waited longer than two years for treatment. We met the one-year target and the nine-month target and we will meet the eight-month target this year. We might be 1% or 2% off at the end but in the main it will be met. We have achieved that with a 20% reduction in the budget and a 10% reduction in staffing levels, as well as the doom and gloom coming from the far benches, with people saying that catastrophe will occur no matter what we do. Thankfully, the mindset of the men and women who work in the health service is not of that nature.

**Deputy Billy Kelleher:** Thankfully, that is the case, particularly when one considers they had to listen to doom and gloom from the Minister when he was spokesperson some years ago.

**Deputy James Reilly:** I congratulate them again and take the opportunity to wish them a happy Christmas.

### **Health Insurance Data**

8. **Deputy Lucinda Creighton** asked the Minister for Health the policy measures he has taken to level the playing field in the health insurance market between competitors that have

low levels of elderly policy holders and those that have none; and if he will make a statement on the matter. [54121/13]

**Deputy Lucinda Creighton:** The VHI has over 65% of all private health insurance policyholders between the ages of 60 and 69, 70% of all policyholders between 70 and 79 and 80% over the age of 80. What has the Minister done since coming into power in 2011 to level the playing field in this regard? What has he done to ensure all health insurers play their part in taking on older policyholders?

**Deputy James Reilly:** I thank the Deputy for her question because it is an area very much to the core of what the Government is doing in health insurance. There are three legs to this stool, namely the Department of Health, the Health Service Executive, HSE, and the private health insurers. The Deputy is correct that there is a much greater proportion of older people in the VHI. For example, Laya Healthcare has 22% of the market but only 8% of those over 70 and 80.

We have introduced the risk equalisation scheme.

**Deputy Billy Kelleher:** Which Fine Gael opposed when it was in opposition.

**Deputy James Reilly:** There was much debate about this several weeks ago. The scheme is effective to the point that it compensates for 78% of those over the age of 70 and 85% for those over 80, rates which were 73% and 82% respectively last year. The plan is to get it to a rate of 90% in terms of its effectiveness in compensating insurers who have older people on their books.

Let us call a spade a spade. If there were great unfairness or overcompensation, we would not see the disparity between the VHI with such a high preponderance of older clients as opposed to the other players in the market. There is a concern that insurers will try to segment the market by bringing in new products. For example, VHI took off cataracts, knee and hip replacement procedures from its plan B which was aimed at dissuading older people from buying the policy. There are nearly 270 different insurance policies available which is set to confuse consumers. The Health Insurance Authority, HIA, will be beefed up considerably to deal with these issues in the market place. The risk equalisation scheme is the mechanism the Government uses to ensure a level playing field in the market.

**Deputy Lucinda Creighton:** I thank the Minister for his reply but take issue with the assertion that risk equalisation has been effective. The figures show clearly that the opposite is the case. At this stage, it has become apparent that this idea of levying and subsidising is not actually working. Has the Minister considered a proper regulatory framework which would oblige all health insurers to take a reasonable proportion of older insured patients? If he does not, there never will be a shift from the VHI.

On entering office, the Minister commissioned a study by Matheson and Goodbody into the various options for the VHI, including its break-up. Bizarrely, the chief executive of the VHI informed me at the health committee two weeks ago that he has never seen this report. Has the Minister seen the report? Members should also see this report.

**Deputy James Reilly:** There have been several reports on the VHI, many of them done by the Department's actuarial advisers, Milliman. These are the reports the VHI and the Department would take up. I have seen the Matheson report too.

The risk equalisation scheme is working. It seeks to compensate insurers for the cost of older policyholders who tend to be sicker and use health services more. We have to be careful, however, that it does not overcompensate. That is why the rate is set and it is agreed with the European Commission that if an insurer makes profits of more 12% three years running, then it is seen as overcompensation and the moneys are taken back from them to be put into the health insurance fund. As this scheme becomes more effective, the other insurers will see it will be worth their while and profitable to take on older policyholders.

**Deputy Lucinda Creighton:** We are operating on the basis of aspiration rather than concrete or tangible evidence of risk equalisation working. The fact no consideration has been given to any alteration of the regulatory regime seems to rule out an important and relevant option. While it is some relief that the Minister has seen the Matheson report, it is bizarre that the chief effective officer of the VHI has not seen it. Will the Minister share that report with the House, so that those interested in this topic will be able to analyse some of its proposals, particularly as we move towards universal health insurance? I cannot understand why the report is suppressed.

**Deputy James Reilly:** The suggestion of forcing through regulation that a certain number of people of a particular age group must be insured would raise all sorts of problems with competition law. In any event, the carrot is always better than the stick. The VHI is positive about the risk equalisation scheme while the other insurers are negative. If they were so concerned about the tariffs applied in the scheme, then they would take on more older people. I believe they will in the future.

There is much planning ongoing on how to beef up the HIA to allow it regulate the market to reduce the number of policies available because they are just causing confusion.

People renewing their insurance should visit the website *www.hia.ie* which has good comparative information available on what are the best plans suited to them.

**Deputy Lucinda Creighton:** Will the Minister publish the Matheson report?

### **Proposed Legislation**

9. **Deputy Joan Collins** asked the Minister for Health if he will legislate for access to a termination of pregnancy here when a woman is diagnosed with a fatal foetal abnormality. [54012/13]

**Deputy Joan Collins:** When a woman finds herself pregnant, it can be a joyous and wonderful occasion. On the other hand, it can be sad and a bad situation for a woman or a couple, particularly those who find early in the pregnancy that their child has a fatal foetal abnormality. It is a dark place as we know from the stories couples and women affected told to us and the Minister. When the Minister met with them he gave them much sympathy. However, sympathy is not what they want. They want-----

**An Ceann Comhairle:** Sorry, Deputy, you are way over time.

**Deputy Joan Collins:** -----the Minister to introduce legislation to address this area.

**Deputy James Reilly:** It is a terrible tragedy for any couple which finds the chances of survival for their baby are not realistic. The diagnosis of a fatal foetal abnormality has to be one

of the worst pieces of news that any pregnant mother can get.

However, termination of pregnancy in Ireland is permitted only in very limited circumstances, that is, only if it is established, as a matter of probability, that there is a real and substantial risk to the life, as distinct from the health, of the mother and that this real and substantial risk can only be averted by the termination of her pregnancy. These are the X case criteria. The Protection of Life during Pregnancy Bill 2013 was recently enacted, the purpose of which is to restate the general prohibition on abortion in Ireland while regulating access to lawful termination of pregnancy in accordance with the X case and the judgment of the European Court of Human rights in the A, B, and C v Ireland case, and also in accordance with the Constitution.

The purpose of the Act is not to confer new rights to termination of pregnancy, but only to provide for existing rights, that is, within the constitutional provisions and the Supreme Court judgment in the X case. Therefore, fatal foetal abnormalities are not covered in the Act as grounds for termination.

Officials in my Department have liaised with the HSE crisis pregnancy programme to facilitate a meeting with a group representing women who have received such a diagnosis in relation to relevant crisis pregnancy counselling and post-abortion counselling options currently available, and ways to improve the standard of service nationwide. This group has now made contact with the crisis pregnancy programme and they are due to meet shortly.

**Deputy Joan Collins:** It is not acceptable that we are still sending women in this situation to other countries to terminate a fatal foetal abnormality. We know that these women are going to Europe to challenge this, because they feel that as the foetus cannot live outside the womb, it is not covered under the legislation to which the Minister refers. I do not think we should wait for Europe to tell us again to deal with issues related to the health of women. In the North, women have also come forward about the issue and the Assembly is examining whether its legislation can be changed, in order to support women who want a termination in their country. Rather than waiting for Europe to tell us what to do, the Minister should be investigating how we can bring legislation forward to deal with it.

**Deputy James Reilly:** I do not wish to be specious, but Europe did not tell us to change the law; Europe pointed out to us that we needed to clarify the law for women and for the practitioners who provide them the service. That was the purpose of the Protection of Life during Pregnancy Act 2013.

The best advice available to me on this issue, which is a very sensitive, sad and tragic situation, is that it would require a constitutional referendum to change the Constitution. Clearly, this is a very difficult area and the HSE is engaging with the pregnancy counselling agency on it.

**Deputy Joan Collins:** I think it was the UN that issued a direction to Ireland to deal with the A, B, C and D cases. The D case certainly highlighted that we have to deal with the issue of fatal foetal abnormalities. Women have to go to court in Europe to deal with these health issues. They are not just about terminations; they are health issues for women. That is not acceptable. These women have approached the Minister already and have indicated where they could allow for termination of pregnancies for fatal foetal abnormalities through the Constitution, and I think we should be dealing with that.

**Deputy James Reilly:** I understand the Deputy's concerns. I met with the group represent-

ing women whose pregnancies have been found likely not to result in a baby that can survive. It is a very difficult issue and we will continue to meet with them to find the best solutions that we can under the current legislation.

**Deputy Caoimhghín Ó Caoláin:** I would like to ask a quick question on this. Can the Minister confirm if the Bill has now been introduced in full? Has it been enacted? Is it actually now in practice across the health services?

**Deputy James Reilly:** The Bill has not been commenced yet. The panels have been formed by the HSE and I hope to be able to do so by the end of the week.

*Written Answers follow Adjournment.*

### **Topical Issue Matters**

**An Ceann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Joe McHugh - the treatment of sufferers of Duchenne muscular dystrophy; (2) Deputy Anthony Lawlor - the need to establish two separate schools on the one campus in Maynooth, County Kildare; (3) Deputy Dan Neville - the establishment of a rehabilitation adult mental health service; (4) Deputy Pearse Doherty - the allegations in the media concerning NAMA; (5) Deputy Thomas P. Broughan - the offshore renewable energy development plan; (6) Deputy Denis Naughten - the steps which have been taken to investigate the possible sale and reuse of HSE braces; (7) Deputy Brendan Griffin - job losses at Shannon LNG; (8) Deputy Peadar Tóibín - the need to ensure that 50% of foreign investment into this State is located outside Dublin and Cork; (9) Deputy Niall Collins - the proposal to re-designate solicitors of the Legal Aid Board from public servants to civil servants; (10) Deputy John O'Mahony - the concerns of families who have children with narcolepsy; (11) Deputy Brendan Smith - the recent publication covering acts of collusion between the British state and loyalist paramilitaries; (12) Deputy Martin Ferris - to discuss the judicial review decision regarding the Shannon LNG project; (13) Deputy Clare Daly - the suppression of information in relation to thalidomide; (14) Deputy Dessie Ellis - the need to supply GPS enabled beacons for sufferers of dementia and similar disorders; (15) Deputy Paul J. Connaughton - the need for a new primary care centre in Gort, County Galway; (16) Deputy Timmy Dooley - the need to ensure that EU cabotage rules are enforced here; and, (17) Deputy Billy Kelleher - the need to adequately staff the new epilepsy monitoring unit at Cork University Hospital.

The matters raised by Deputies Timmy Dooley, Joe McHugh, Denis Naughten and Clare Daly have been selected for discussion.

### **Social Welfare and Pensions (No. 2) Bill 2013 [Seanad]: Order for Report Stage**

**Minister for Social Protection (Deputy Joan Burton):** I move: "That Report Stage be taken now."

Question put and agreed to.

**Social Welfare and Pensions (No. 2) Bill 2013 [Seanad]: Report Stage**

**An Leas-Cheann Comhairle:** The first amendment, in the name of Deputy Willie O’Dea, is out of order.

Amendment No. 1 not moved.

**An Leas-Cheann Comhairle:** Amendments Nos. 2 to 4, inclusive, and 22 are related and may be discussed together.

**Deputy Aengus Ó Snodaigh:** I move amendment No. 2:

In page 9, between lines 19 and 20, to insert the following:

“9. The Principal Act is amended by inserting a new section 48A as follows:

“48A. (1) A healthy sponsor shall not be allowed to close a defined benefit pension scheme except where the scheme has reached a minimum 90 per cent funding standard.

(2) For the purposes of this section a healthy sponsor means an employer that—

(a) has positive net revenues, or

(b) has a parent company with positive net revenues.”.”.

We discussed these amendments, or similar ones, on Committee Stage. Their primary role is to ensure that a sponsor or a company that has sponsored a defined benefit pension scheme would not be allowed to close that scheme except when the minimum 90% funding standard has been achieved. The phrase “healthy sponsor” is the wording from the OECD report on pensions in Ireland, a substantial document which in many ways triggered what we are doing today, along with the fact that a number of these schemes have run into trouble or have had some type of difficulty including full closure.

Pensioners and active members have been left with much less than they had intended and agreed to when they initially signed up to their pensions. They had looked forward to their retirements in the hope that they would have pensions that would allow them to enjoy them. Some of them put away a substantial sum of money for a long period. Only yesterday I received a letter from a person affected by this Bill, although in his case there are peculiarities which I will come back to later. He said that after paying into a pension for 31 years, with a combined contribution from him and his employer of €90 per week, he can expect to receive a pension of €15 to €18 per week. The pension scheme is getting a substantial reduction on that €90 per week. That is obviously part of where these schemes are, as well as the collapse in this instance of the fund and the sponsor. It is a legacy case that is not necessarily covered by this legislation because it cannot be retrospective.

One of the problems that we and the OECD identified is that there are situations in which the sponsor or its parent company is solvent but desires to get out of the defined benefit pension scheme because it is seen as a liability on its books. The OECD review of the Irish pension system says:

Another weakness of Irish legislation is that it allows healthy sponsors to “walk away”

from DB pension plans, shutting them down, without creating a high-priority debt on the employer, as is the case for instance in the United Kingdom. Under the UK's "debt upon employer obligation", the sponsor's debt (if the plan is underfunded) is determined by valuing the benefits on the basis that they are bought out in full via immediate annuities (for pensioners) or deferred annuities (for non-pensioners).

We are trying to ensure that no company that is still trading - or, in the OECD's words, whose parent company has "positive net revenues" - can avoid or evade its responsibilities to a pension fund that is in crisis. We are asking that this be recognised in legislation to ensure subsidiaries of profitable multinational or Irish companies do not avoid their responsibilities by shutting down their pension schemes.

I urge the Minister, even at this late stage, to devise a mechanism that will allow this amendment to be accepted. There is an urgency about getting this legislation passed to ensure that people affected by the collapse of any scheme in the next couple of months are covered by it. Even in cases before the courts now the judges can see the Government's intention, although they do not have to abide by it. This is also tied to the European Court of Justice legislation on pensions and the EU directive.

I do not know whether the Minister has had a chance to examine the proposal before us. It does not deal only with pensioners who benefit from pensions now. It would also ensure that active members who are paying into the pension pot and deferred members are looked after. We will return to that. This ensures that responsibility lies with the employer in these instances.

**Deputy Clare Daly:** It is important to put the amendments in the context of the backdrop to the legislation and the stated objectives of the Minister, and whether they have been addressed. We are dealing with a scenario in which some defined benefit schemes have run into difficulties. As it is constituted now, many active members and some deferred members are left with a very serious hit, whereas up to now those who were already on a pension had a certain amount of protection. This Bill proposes to alter that priority arrangement. We have to be very careful because, while there is obviously a serious issue that needs to be addressed for the active and deferred members of schemes, examination of the impact on pensioners needs to be carefully factored in.

The Bill deals with double insolvency scenarios, in which both the company and the pension scheme are in financial difficulties, and guarantees certain benefits in that scenario. The Bill does not sufficiently address scenarios in which the company is financially secure but the pension scheme is potentially in difficulty. The issue of employer responsibility is the key part of this legislation which needs to be tackled. On Committee Stage the Minister was sympathetic to these points, but she has not accepted any changes to the legislation which are necessary to address this. We must stress the reasons these amendments must be taken on board.

*11 o'clock*

I am very conscious of the situation where companies, like Aer Lingus, have cash reserves of almost €1 billion yet refuse to invest adequately in a pension scheme which, based on the way it is actuarially calculated now, has been depleted a little because of some of the antics of that company. It is not good enough that a company like that can walk away and leave either pensioners who are currently drawing their pensions, active members or the State picking up the tab. There is a statutory basis to what we are saying, but this Bill leaves it too open. Up to

now, employers have been using a certain loophole in this regard. They have looked at standards like FRS17 and so on, but that the issue has been adjudicated by the Pensions Board and it was decided that the accounting of the scheme as a defined contribution scheme does not negate any of the statutory obligations on the employer.

The Minister is aware there was an important case in the commercial court last year with Aer Lingus. The ruling in that case was that pensions were a contingent liability and that these issues - the debt - existed. What we are trying to do is have this recognised in law as it is in Britain. It is somewhat ironic that in America even people like George Bush implemented legislation which put the pension obligations of employers in law. That is what we need to do here. On Committee Stage, the Minister said the reason she could not do this was because it might result in some of these schemes shutting down.

We must be clear about this issue. As things stand now, defined benefit schemes are not open for business and no new ones are being created. In fact, in many of the companies where they exist, they have been shut to new applicants. The Irish airlines superannuation scheme, IASS, which has almost 15,000 members between the various categories, has been closed to new applicants as a defined benefit scheme since 2008 and 2009, because Aer Lingus has set up an Aer Lingus Ireland pension scheme and the Dublin Airport Authority has set up a Dublin Airport Services Limited scheme. Both of these schemes operate as defined contribution schemes. Therefore, the doomsday scenario the Minister warned might happen is here already. The defined benefit schemes are shut for business.

A good argument could be made that if the Minister imposes strict guidelines and legal requirements on employers that do not allow them walk away, but compels them to face up to their responsibilities for the schemes, this would act as a deterrent to them shutting defined benefit schemes. Currently, they can close them and do not have a liability. What we seek to do is to ensure that if they try to close them at a time when the company is in good financial health, they should be penalised or compelled to foot the bill for that. This is necessary, because if we do not factor this into the legislation, *de facto* we are saying that existing pensioners must pay to solve the problem. This is not good enough, particularly when the majority of pensioners across the State, including those who have contributed over a lifetime of working, have a very modest pension in their retirement years.

It is not true to say that pensioners have not contributed. Let us take as an example a scenario like that of the airport schemes, in the context where this legislation was passed and the 10% cut was to be implemented. Some 95% of the pensioners in that scheme, which would have been considered okay, would come into the lower category and would be open to the 10% cut proposed by the Minister. This would take €8 million per annum from the pockets of those pensioners. This is not good enough, particularly when dealing with companies that have a fine balance sheet. We must take into account the fact that pensioners have funded their schemes over a lifetime of work. They have already seen reductions in pensions due to stamp duty, the pension levy of 2.55%, with another one scheduled for 2015. Many of these pensioners have seen no post-retirement increase in their pension since April 2007. This means that in terms of purchasing power, they have been falling behind.

The Minister made the point on Committee Stage that people are living longer and that this is the reason for the problems. I do not see that as the reason. It may be a small element of the problem, but to be honest the problem is due more to the policies pursued by these companies. They should have recognised this. Some of the big schemes facilitated the problem by using

reserves built up in the pension schemes. They diverted the funds belonging to the pensioners who worked a lifetime to pay for them to incentivise early retirement or voluntary severance programmes, thereby causing a problem in the schemes.

In many instances these employers gave workers no choice. Joining these pension schemes was a condition of employment. If the company has taken steps to break that contract, it is liable. If we do not accept that, we are saying that pensioners or deferred or active members are responsible. That is not good enough. Over a lifetime of work, workers have paid an average employer-employee contribution of over 10% or 15% of their income. That is more than enough, or would have been, to fund an adequate pension on retirement.

For all of these reasons, employer responsibility must be factored into this Bill. The amendments we proposed is one way of doing that. In some of the discussions ongoing in regard to defined benefit schemes, compensation funds are being considered by employers and some moneys are being invested in these. We saw this in the case of the ESB and similarly in the IASS. However, these contributions are not legislated for in the Bill. They need to be legislated for to provide security and to ensure the onus is put on the employer in this regard.

**Deputy Róisín Shortall:** I wish to express disappointment at the Minister's attitude to the debate on this legislation. Many people, particularly spokespersons, have put in considerable time working on this Bill and it is regrettable that once again a wall has come down blocking contemplation of any amendments. Like many of her Government colleagues, the Minister is making a sham of what should be proper debate in our national Parliament. I ask her to reflect on the fact that not all wisdom resides on the Government side of the House. It would encourage us Members who have a mandate to represent the public here if it was clear the Minister was at least open to considering other points of view and other approaches to issues.

The big problem with this legislation is that it seeks to put a sticking plaster on an area that needs fundamental reform and does not make any serious attempt to introduce proper pension reform or protection. This is what is required. We need a whole of Government response, in particular a response from the Minister for Finance and the Minister for Social Protection, to tackle this issue. Dealing with loose ends or various aspects of the pensions issue does not get to grips in a serious way with the many problems that affect the pensions area. It is regrettable that a more fundamental approach has not been taken.

This group of amendments deals with the issue of a single insolvency situation, where a company is solvent, but the pension scheme is not. It is regrettable that no attempt is being made within the legislation to ensure that at least some of the deficit in a pension scheme will remain as a debt on a company. This is the single biggest flaw in the legislation that the Minister has brought forward. As I described it earlier, this legislation is another form of corporate welfare. It is also another example of socialising what is essentially private debt. In a situation where a solvent company moves to wind up an insolvent pension scheme, the Minister proposes that the pain will be shared among the existing and deferred pensioners. None of the pain would be taken by the company concerned.

The company concerned entered into an agreement with its employees that if they made certain contributions, the company would make certain contributions and there would be certain pension benefits arising out of the agreement. The Minister is now telling the corporate world that companies that wish to wind up defined benefit pension schemes may do so and may walk away, as other speakers have said. The Minister will spread the pain to existing pensioners who

previously enjoyed security and a sense that their income would not be affected in future. She will spread the pain and proposes to reduce the pension benefits of existing pensioners to improve the pension prospects for deferred pensioners. The big issue in all of this is that the body that was contractually required to honour its agreement in respect of its pensioners and future pensioners will not be expected to do anything about it. As we have seen in recent times, more and more companies, including very profitable ones, are choosing to wind up defined benefit pension schemes. Unlike in other jurisdictions, they are being allowed by the Minister and the Government to walk away from these debts. There can be no justification for this whatsoever.

Changing the priority order to benefit future pensioners at the expense of existing pensioners merely spreads the unfairness further and does not tackle the core issue. Ireland will allow very rich companies to simply walk away from the debt of their pension promises. One must question why the Government proposes to do this in the current circumstances. It does not happen anywhere else in Europe and companies are certainly not allowed to do this in the UK. There is a sense of social solidarity between governments and people who in good faith entered pension schemes, made contributions over decades and had a reasonable and fair expectation the commitments entered into by their employers or former employers would be honoured. Through this legislation the Minister will facilitate and allow a situation whereby these commitments will be binned by the companies concerned. I cannot understand how a Minister of the Labour Party, in particular, could allow this situation to arise or would facilitate it in developing.

If a suggestion were made to do anything in the public service along the lines of what the Minister proposes to do to private sector workers, there would be riots in the streets. For example, what would happen if the State told teachers it was closing down their pension scheme and would not honour earlier commitments? Essentially, this is what the Minister will allow companies to do. She will allow them walk away from their responsibilities and leave people high and dry with regard to the reasonable expectation of pension benefits.

What worries me about this is that when people entered into an agreement with their former employers to make pension provision over their working lives, the expectation was that the commitment would be honoured in full. There is no reason healthy, solvent companies should not be required to honour this commitment to the level of 100%. In essence, this was the agreement reached and the contract made. Where this is not possible, it should be up to the Pensions Board to ensure any outstanding debt and deficit in the scheme remains as a debt with the company. Otherwise, there will be no justice in what the Minister proposes to do. This is why I propose that solvent employers should be required to honour the commitment to the level of 100% and should not be allowed to wind up schemes without doing so.

I also propose that the maximum pension benefit in a case of single insolvency should be €60,000. This is an exceptionally generous pension arrangement. There was recognition of sorts by the Government that this is the maximum that should be subsidised in any way by the taxpayer. Last year in the budget the intention of limiting pension tax relief was announced to allow for a maximum pension of €60,000. This is a very generous pension. There seems to be recognition there is no case whatsoever for the taxpayer to subsidise pensions above this level. For this reason I propose that, as well as requiring companies to adhere to their original commitments and to 100% funding of pension arrangements, we should establish a maximum of €60,000. The Minister's proposals to reorder the priority will mean that people on very small pensions will see these pensions cut, but the pensions of some very high earners in a company scheme, which could substantially exceed €60,000, will see a percentage reduction. There is no justification, in my view, for making provision for pensions in excess of €60,000. It would

be much fairer if a pension limit of €60,000 were to apply in the reordering proposed by the Minister.

Overall, it is extremely disappointing that the Minister will facilitate companies in welshing on commitments entered into with their former employees and allow a situation to exist where profitable companies completely renege on their commitments to their former employees. She will facilitate this, and there will be a knock-on effect for the people concerned and a knock-on impact on the State because of the subsidies that must be provided to pensioners as a result of the reduced benefits. This seems to be another bailout for the corporate sector. I cannot see how allowing people to walk away from their financial responsibilities can be described as anything else. I must say it is incredible that the Minister would propose to do this.

**Deputy Willie O’Dea:** The thinking behind these amendments was discussed at some length on Committee Stage, and I support them. In its wisdom, the OECD recommended a certain course of action, which is what is proposed here. I am sure it examined very carefully all of the arguments with regard to various jurisdictions, as well as the arguments specific to this country, and recommended that we do what every other country does - particularly our nearest neighbour the United Kingdom - which is to prevent financially healthy, solvent companies from closing down their defined benefit pension schemes. The Minister’s advisers seem to have taken a different view from the OECD with regard to the wisdom of doing this, for what reasons I cannot quite fathom. Companies would not be in danger of being plunged into bankruptcy if we brought forward this provision to compel them to close their defined benefit pension schemes until they had reached a specific threshold in order that the commitments made to retired employees could be honoured for the most part. This provision concerns companies that are financially healthy and could well afford to keep their pension schemes open. Whether they are subsidiaries or parent companies, if they are financially healthy, it is, by and large, due to the efforts of those who will benefit from the defined benefit pension scheme. There is no logic or justice in failing to place an obligation on them. Perhaps we might agree a lower figure than 90%, but there should be an obligation on them. Companies should not be allowed to walk away scot-free and leave their employees hanging.

On Committee Stage the Minister said if we were to do this, more companies would close their defined benefit pension schemes. When will they do it? We are supposed to conclude the legislation today and it will be signed by the President shortly. Will there be a rush in the meantime by solvent companies to close their schemes or can the Minister table an amendment to make this proposal effective from today, which would cut off that opportunity for them? In the interests of justice and fairness, we cannot say we are introducing legislation, while, at the same time, remaining the only country in the civilised world that permits employers to enter into defined benefit pension schemes with employees and then to walk away for no reason or to decide unilaterally to close them, regardless of how successful their employees have made the finances of the company. Will the Minister give serious consideration to this set of amendments?

**Minister for Social Protection (Deputy Joan Burton):** Since becoming Minister, I have commissioned the most comprehensive review of pension schemes in the midst of all the economic difficulties that beset Ireland following the bank guarantee and the collapse in the construction sector. The OECD has strongly recommended, in the context of the continuing difficulties experienced by defined benefit pension schemes over a long period - the problems did not arise today or yesterday; they have been ongoing for a long period - that we, as a country, when economic recovery permits, seriously consider debating a move to mandatory enforcement in supplementary pension schemes or auto enrolment. That is what is done in most coun-

tries with systems similar to that in Ireland. For a variety of reasons, not excluding the FRS 17 accounting standard referred to by Deputy Clare Daly, the landscape has changed in the past 20 years in how pensions are accounted for in defined benefit schemes. I understand why people may dislike FRS 17 which has evolved since the 1980s and, unfortunately, resulted in the fall-out affecting defined benefit pension schemes in the past two decades that Members have described.

In Ireland defined benefit pension schemes are set up and maintained by employers on a voluntary basis. There has never been a statutory obligation on them to contribute to their pension schemes. None of the Members who have contributed suggested there be such a statutory liability when establishing a pension scheme; rather, when a defined benefit scheme is set up, the level of employer and employee contribution is agreed and established under contract law in each of the scheme's trust deeds and rules where they operate under contract and trustee law. The suggestion that no law applies to defined benefit pension schemes in Ireland is incorrect. However, they come under a particular structure that has applied to them since they were first set up. The trust deeds and rules differ from scheme to scheme because there are three parties - the employer, the trustees who administers the scheme under trust law and the employees. The employees are split into three groups: pensioners - retired employees; active members currently contributing to the scheme who generally are employees of the company; and deferred members - people who have not reached pension age but who have left the employment of the company. All three categories have rights under the scheme as contributors.

I refer to what has happened in the past ten years. The funding standard expert group of the Pensions Board recommended against the introduction of a debt-on-employers in 2004 and again in 2005. I highlight this because at that stage the economy was doing extraordinarily well and the State had been a generous contributor to the schemes over a long period via tax reliefs. The expert group viewed this proposal as introducing a retrospective cost on employers and feared it would undermine the voluntary basis on which defined benefit pension schemes were set up. It is interesting that the OECD's report recommends that, as a society, we debate a supplementary pension scheme in addition to the State pension contribution which is all that many people have to rely on and which is worth approximately €12,000 annually. However, somebody retiring on a State contributory or non-contributory pension equating to that amount will sometimes get a shock, although, comparatively, it is a high pension rate within the European Union. It is a comment on Ireland that members of all political parties and none have been strong supporters of strong State contributory and non-contributory pensions.

A Green Paper on pensions was published in 2007. It considered the debt-on-employer provision and referred to what had been said in 2004 and 2005. The high watermark of the Celtic tiger era was in 2007. At the time there were many difficulties with defined benefit pension schemes because of changes in businesses and because of the changes brought forward by FRS 17, an international accounting standard that did not originate in Ireland. In 2010, following a public consultation process on the Green Paper, the national pension framework was published by the then Fianna Fáil Minister and it did not include a debt-on-employer provision at a time when the financial circumstances in Ireland were unbelievably benign. If the Deputy wants an honest discussion on this, he should examine the history of what all the parties have said about pensions at a time when the country was prosperous and read the OECD report which I commissioned in order to start a debate on the issue. The OECD's review of the Irish pension system recommended a degree of risk sharing and concluded that the priority currently given to pensioners before other members when a scheme is wound up creates significant inequalities

across members. It also recommended that the priority currently given to pensioners over other members where a scheme closes because of sponsored bankruptcy should be eliminated. It is easy to say this, that or the other could be done if we had the money. This issue was previously debated in the Dáil during a period when the country was prosperous but I do not recall any dissent on the Green Paper or the national pensions framework. They were regarded as broadly progressive documents. I raised issues regarding the application of large amounts of tax reliefs and the fact that some people were able to create extraordinary levels of pension provision through generous and uncapped tax reliefs.

In 1997, 2,242 defined benefit pension schemes were subject to the funding standard. At the end of 2007, when the Green Paper was issued and when the economy was enjoying a peak of prosperity, even if it was built on a bubble, the number of schemes had dropped to 1,319. The difficulties in defined pension schemes have not arisen overnight. Unfortunately, they have been ongoing for 20 years. As the end of 2012, there were 993 schemes and currently there are just over 800 schemes. The good news is that more than 50% of schemes have introduced restructuring arrangements that allow them to continue in operation. However, between 10% and 20% of schemes have severe difficulties.

The purpose of the legislation is to nurse as many schemes as possible to continuing health and to make provision for currently active members who are paying into schemes and deferred members who paid into schemes during their periods of employment. On Committee Stage we discussed the pros and cons of imposing a debt on an employer. This debate has gone on for a long time. Deputies have argued that imposing a debt on the employer would protect all scheme beneficiaries because the employer would meet all of the requirements. I will not speak about the capacity of an employer to meet such an obligation. Deputies also argued that it would prevent employers from walking away, encourage them to ensure schemes are well funded and managed and reduce the potential risks for the State. The arguments against the proposal are equally important and relate to protecting the parties to the scheme. There would be a threat to the financial stability of the companies concerned which, in some cases, could render them insolvent. Deputy O'Dea referred to that issue. A large number of the companies based in Ireland are subsidiaries of international parents and may have been bought and sold on several occasions. The employer which originally established a scheme may subsequently have been replaced by an international employer without any deep loyalty to the scheme and is prepared to make only a limited contribution to it.

Deputy Shortall asked about the amount of discussion we have had on these matters. I do not think I have discussed another issue with more individuals and groups on all sides of the argument. I assure her that my Department continues to engage in extensive discussions with stakeholders and the Pensions Board. It is not correct to say there has been no discussion. In many cases there has been agonised discussion about achieving the right balance.

An employer obligation will impact on company debts, investment and growth, as well as the employer's ability to raise funds for a pension scheme. If companies are raising funds on the open market it may face problems in terms of employer debts. I am not saying that I approve of there being a problem but modern international finance is complex and companies have to fund themselves. If a company is not able to find finance on reasonable terms and conditions, its future may be undermined. There may also be competitive advantages for employers who never provided a pension scheme or operate relatively risk free defined contribution schemes, which are now the norm among younger people.

If we end up prompting well funding schemes to wind up in order to avoid future debts, that would be an unintended consequence of the good intentions behind the amendments. Some industry experts have suggested that a statutory obligation on employers has the potential to eradicate the provision of private defined benefit schemes in Ireland. The experience of the UK and internationally has shown that complex anti-avoidance structures, with requisite resources and expertise, were required to prevent employers from restructuring to avoid their obligations. There was also an impact on companies' general creditors in terms of whether they continued to offer credit in the event that the debts accrued on pensions cannot be funded. Internationally, the structures in large economies such as the UK and the United States are both extensive and expensive. I do not know whether it is possible to have these kinds of structures in Ireland given the costs they entail, as well as the anti-avoidance mechanisms that would almost certainly be required. We are all aware of the magnitude of tax planning in this country by corporates. Things are much the same in terms of pension planning.

Many employers that set up defined benefit schemes - as some commentators have stated, they were not required to do so; it was done on a voluntary basis, and employees were enrolled in the schemes as part of their employment - have been good in seeking to renegotiate their schemes in a way that benefits all parties to the scheme, including pensioners, deferred members and active members. It is important to recognise that rather than assuming complete bad faith on the part of employers, and to recognise their commitment to their employees, who, as it has been rightly stated, make their businesses successful.

I refer also to representations and commentary made to me as Minister by a variety of groups representing different aspects of Irish society which are stakeholders or have an involvement in pensions. They asked for the current section 48 framework on restructuring to be changed for a number of reasons. With regard to the fact that insolvent schemes have been winding up, thankfully, with the restructuring we hope to get as many schemes as possible safely across the line. More than 50% of schemes are now in such a position - which is, by the way, a much better outcome than was predicted when this process started. The groups referred, secondly, to the risk carried by the shrinking population of active and deferred members, which will become more pronounced in the future as schemes are closed to new entrants. The level of protection for pensions, they went on to state, is not compatible with the concept of intergenerational risk sharing among active and deferred members, and it is possible that active members who have increased their contributions or agreed to reductions in their benefits in order to sustain a scheme would receive no benefits on a subsequent scheme wind-up. Those who contacted me about this - I am summarising some of their views - included employers, the society of actuaries, representatives of trade unions and employees, and representatives of the Irish Association of Pension Funds - the pension funds sector. It is a difficult issue. For the record, that is what they had to say.

**Deputy Róisín Shortall:** They would say that, because they are the interests the Minister is serving.

**Deputy Joan Burton:** Those in the Irish trade union movement have gone to extraordinary lengths to seek to protect members' interests, but one must bear in mind the difficulty that there are three different categories of member. What we have tried to do here is to balance the interests of the three categories of member in a difficult situation.

I note that Deputy Shortall suggests in one amendment that anyone with a pension over €60,000 would lose everything greater than that amount. This was discussed in the Seanad

and on Committee Stage. The advice from the Attorney General is that any action reducing anybody's entitlement to a pension must be proportionate and fair. I came up with a scheme whereby those with a pension of up to €12,000 are not affected - I gave the information that the median pension in Ireland under DB schemes is €11,000, which means the vast bulk of pensioners would not be affected; those on a pension of between €12,000 and €60,000 would contribute up to 10%; and those on a pension above €60,000 would contribute up to 20%. In a restructuring situation, if one can manage to make the scheme viable, it should be possible to protect pensions to a higher level than that, and that is the object of what we are doing. Where those in a DB scheme have made higher levels of contribution for a higher level of pension, I am advised by the Attorney General that in law it would be disproportionate to take everything over a certain level from them. I advised Members of that on Committee Stage. Such a proposal would not stand the rigors, for instance, of the FEMPI process which the country has been through. There must be proportionality.

I am not in a position to accept the amendments. As I stated, I understand Members' motives in seeking to protect everyone's interests, but we are talking about schemes that have a difficulty and that we are trying to help restructure, and in the event of a double insolvency, we are offering State protection of the interests of members of such schemes. That is what the Bill is trying to do. In that sense, it is consistent with the long discussion on the issue that has gone on in this country for up to 20 years without any changes having been enacted, while increasing numbers of schemes have closed or wound up.

**Deputy Aengus Ó Snodaigh:** The aim of these amendments is to implement a recommendation by the OECD in a report that was made to the Minister. It is not something that we in the Opposition dreamt up. We understand the problems some companies have, but there were companies that set up DB schemes and dangled them as a carrot to get employees by stating, 20 years or 30 years ago, that employees would be guaranteed a certain income on retirement. It was quite attractive - in fact, so attractive that only a few years ago there were 2,500 such DB schemes in the country.

The Minister mentioned that companies are being bought, sold and whatever else. Any company that bought a company in Ireland knew the liabilities and knew the issues. In fact, the recent strike proposal from the ESB unions related to the labelling of the company's DB scheme as a defined contribution, DC, scheme to make the ESB more attractive either for privatisation or to access funding on the international market. Companies do not want that type of future liability on their books and they are trying to get rid of such schemes. All employers in the capitalist market aim to make as much profit and squeeze as much out of workers as possible, and this is another such occasion. It is right and proper that we ensure in this Bill that employers have a liability to the pension fund that they, along with employees, have set up.

Obviously, there are dangers. That is why my party has used the OECD description of a healthy sponsor. It states healthy employers could be defined as those with positive net revenues. That means that a company will not collapse if it makes the contribution that it should make to bring the pension fund, as in the case of my amendment, up to the 90% funding standard.

**Deputy Willie O'Dea:** I wish to speak briefly in support of what Deputy Aengus Ó Snodaigh said. The Minister has mentioned two pension reports that preceded the OECD's report. I understand the OECD's report is very specific in recommending that this change be made. The Minister has mentioned that there are differences of scale between the economy and the

economies of the United States and the United Kingdom. That is true, but has she examined what is happening in other countries of comparable size? Would she like to comment on this?

The Minister has made the point that if legislation along the lines of that in the United Kingdom was introduced, substantial avoidance measures would be taken. I do not accept that as a valid argument. One might as well say we should get rid of capital gains tax or other taxes because people would indulge in elaborate schemes to avoid them. People have certainly tried to avoid the new pensions legislation in the United Kingdom, but the government there does what a government does in the case of tax avoidance measures - it brings forward anti-avoidance measures to close down such efforts.

The Minister has also made the point that people are being put at a competitive disadvantage. I argue that any company providing a defined benefit pension scheme, for whatever reason, perhaps as Deputy Aengus Ó Snodaigh said, to induce people with the requisite skills to join it, is at a competitive disadvantage because it has an obligation that companies that do not provide a defined benefit pension scheme do not have. Therefore, that argument goes out the door. I notice that the Minister has abandoned the argument about there being an immediate rush to close down defined benefit pension schemes because she is aware that we will conclude our discussion on this legislation today and that it will shortly be signed by the President. In any case, she could make the legislation effective from today.

**Deputy Clare Daly:** We must realise that this is the first time we are allowing the pensions of existing pensioners to potentially be reduced. That is a very serious matter. It is being done in the name of fairness, but the point of the amendments is to question if it is fair to allow this against the backdrop of a successful, profitable, viable company. The reality is that some employers have exploited the lack of clarity in order to walk away from their responsibilities. The Minister has said these companies engaged on a voluntary basis. It is true that there was no statutory obligation on them to set up a scheme, but they did and made an obligation; it was not voluntary for their employees. There are people paying into pension schemes who, for every euro they put in, will only get back 32 cent. It is dead money, but it is a condition of their employment; therefore, it was not voluntary for them. There is a legal obligation and the commercial courts have stated it is a contingent liability in these circumstances.

The Minister mentioned that FRS 17 was a factor. While it has been in existence since the 1980s, it was only in the late 1990s that some companies started to use it as an measure. Therefore, it is not an excuse. The Pensions Board has adjudicated on the issue and stated it does not replace the statutory obligation. For the Minister to argue that a defined benefit pension scheme and putting the onus on employers would give a competitive advantage to other companies that do not such schemes is unbelievable. That is a recipe for brute neoliberalism. She is nearly arguing in favour of having a race to the bottom. The same argument could be made about providing decent pay levels, sick pay schemes and so on. Is the answer to have none of these employee benefits or decent conditions of work because it might put a company at a competitive disadvantage? Of course, it is not. It is a matter for us to tighten things up to ensure all employers stand by such schemes.

The Minister has made the point that a number of schemes have been restructured, but at what price? Under the new arrangement, the pain is being shared and the Minister is including pensioners for the first time, but if she were to take on board some of the amendments, she could tighten employer responsibility.

**Deputy Róisín Shortall:** There may be no statutory liability on employers in this respect, but employers entered into contracts with their former employees and where a party breaks a contract, there must be consequences for so doing. Clearly, in the world of the Government there are no consequences for employers in that regard.

The Minister has quoted from the OECD's report and boasted about having commissioned it, but what we need is a comprehensive response to the pensions crisis. We need the OECD's report and its recommendations to be implemented in full, not a piecemeal approach adopted, picking and choosing elements of it. It strikes me as incredible that the Minister who at one time would have been up in arms at the notion of spreading bank debt across the population has been complicit in continuing a policy started by the previous Government in that regard. That she would now proceed to spread employer debt across all pensioners turns the notion of fairness and justice on its head. There is no defence to what she is proposing to do.

What exactly is the difference between Ireland and all other European countries? What specifically is the difference between Ireland and the United Kingdom? Why is it that we do not have the same protections for pensioners introduced in other states? The only conclusion one can come to is that the Minister wants to continue in the bailout vein in which the country has been in recent years where the biggest vested interests and those with the greatest access to ministerial decisions can continue to walk away from their financial responsibilities and leave the ordinary citizen to carry the load. This is completely unacceptable.

**Deputy Joan Burton:** Those with a pension under €12,000 are totally protected under the scheme. The median pension is €11,000. Second, almost all such pensioners also have an entitlement to the State contributory pension of roughly €12,000.

**Deputy Róisín Shortall:** What if they do not?

**Deputy Joan Burton:** That brings their cumulative pension to roughly €24,000 which, in the context of the average industrial wage of around €34,000 to €36,000, is moderately good. I would like to see it higher, which is why I would like to see the OECD's recommendation of a supplementary scheme being implemented in Ireland as economic conditions improve.

Amendment put:

<i>The Dáil divided: Tá, 40; Níl, 73.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Breen, Pat.</i>
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>
<i>Broughan, Thomas P.</i>	<i>Burton, Joan.</i>
<i>Calleary, Dara.</i>	<i>Butler, Ray.</i>
<i>Collins, Joan.</i>	<i>Buttimer, Jerry.</i>
<i>Collins, Niall.</i>	<i>Byrne, Catherine.</i>
<i>Colreavy, Michael.</i>	<i>Byrne, Eric.</i>
<i>Cowen, Barry.</i>	<i>Carey, Joe.</i>
<i>Crowe, Seán.</i>	<i>Coffey, Paudie.</i>
<i>Daly, Clare.</i>	<i>Collins, Áine.</i>
<i>Doherty, Pearse.</i>	<i>Conlan, Seán.</i>

<i>Dooley, Timmy.</i>	<i>Connaughton, Paul J.</i>
<i>Ellis, Dessie.</i>	<i>Coonan, Noel.</i>
<i>Ferris, Martin.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Fleming, Sean.</i>	<i>Costello, Joe.</i>
<i>Fleming, Tom.</i>	<i>Creed, Michael.</i>
<i>Halligan, John.</i>	<i>Deasy, John.</i>
<i>Healy, Seamus.</i>	<i>Deenihan, Jimmy.</i>
<i>Healy-Rae, Michael.</i>	<i>Doherty, Regina.</i>
<i>Kelleher, Billy.</i>	<i>Dowds, Robert.</i>
<i>Kitt, Michael P.</i>	<i>Doyle, Andrew.</i>
<i>Martin, Micheál.</i>	<i>Durkan, Bernard J.</i>
<i>Mathews, Peter.</i>	<i>Farrell, Alan.</i>
<i>McConalogue, Charlie.</i>	<i>Feighan, Frank.</i>
<i>McDonald, Mary Lou.</i>	<i>Ferris, Anne.</i>
<i>McGrath, Finian.</i>	<i>Fitzpatrick, Peter.</i>
<i>McGrath, Mattie.</i>	<i>Flanagan, Charles.</i>
<i>McGuinness, John.</i>	<i>Harrington, Noel.</i>
<i>McLellan, Sandra.</i>	<i>Hayes, Brian.</i>
<i>Murphy, Catherine.</i>	<i>Heydon, Martin.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Hogan, Phil.</i>
<i>Ó Fearghail, Seán.</i>	<i>Humphreys, Heather.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Humphreys, Kevin.</i>
<i>O'Brien, Jonathan.</i>	<i>Keating, Derek.</i>
<i>O'Dea, Willie.</i>	<i>Kehoe, Paul.</i>
<i>Pringle, Thomas.</i>	<i>Kelly, Alan.</i>
<i>Ross, Shane.</i>	<i>Kenny, Enda.</i>
<i>Shortall, Róisín.</i>	<i>Kenny, Seán.</i>
<i>Tóibín, Peadar.</i>	<i>Kyne, Seán.</i>
<i>Wallace, Mick.</i>	<i>Lawlor, Anthony.</i>
	<i>Lynch, Ciarán.</i>
	<i>Lynch, Kathleen.</i>
	<i>Maloney, Eamonn.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McHugh, Joe.</i>
	<i>McLoughlin, Tony.</i>
	<i>McNamara, Michael.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Dara.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Neville, Dan.</i>

	<i>Nolan, Derek.</i>
	<i>Ó Ríordáin, Aodhán.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, John Paul.</i>
	<i>Quinn, Ruairí.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Shatter, Alan.</i>
	<i>Stagg, Emmet.</i>
	<i>Tuffy, Joanna.</i>
	<i>Varadkar, Leo.</i>
	<i>Wall, Jack.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Aengus Ó Snodaigh and Seán Ó Fearghaíl; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Debate adjourned.

### Leaders' Questions

**Deputy Micheál Martin:** In the past few days in the media and elsewhere there have been very serious allegations made about NAMA and its operations. My colleague, Senator Darragh O'Brien, has come to possess material, about which he has spoken in the Seanad and which he will be sending to the Garda Síochána. I understand from media reports that a dossier on the behaviour of a previous employee has been sent to the Garda Commissioner. Very serious allegations have been made which go to the heart of confidence and trust in an extremely important body that is acting on taxpayers' behalf. Certainty, confidence and trust in that body are essential and that is my only remit this morning.

One of the allegations being made which requires urgent clarification from NAMA is that an entire file on a person whose loan book was with NAMA was sent to a partner in a major global property company who was acting on behalf of that person's rival in advance of a major and high profile court case. That would be a shocking revelation if proved true; therefore, the issue cannot be left hanging; it needs an urgent response. Did this happen and if it did, is it just an isolated case or are there others like it?

It has also been asserted that property valuations have been manipulated, which is extremely serious. A person quoted in the material states: "There were perfectly good loans written down in the banks so as to keep the NAMA dream alive. I was the one they relied on to get the massive low valuations. I destroyed people with these valuations." That is extremely serious and cannot be left unanswered for any period. It is very important that we receive a very robust response from the Government and the Minister for Finance in this regard.

The relationship between the Department of Finance and NAMA must be clarified and should be articulated very quickly. Freedom of information requests were tabled to the Department in August 2012, but only six of 19 documents were given in response to these requests. The issue of the remaining documents is with the appeals commissioner. The Taoiseach knows that from the correspondence we have learned that the Barclay brothers were in contact with the Department about loan books in the IBRC. If we are to have confidence and trust, I ask the Taoiseach to say to the Department that it should withdraw any objection it has to releasing all of the material into the public domain in order to show it has nothing to hide. We must demonstrate that the Department, NAMA and key institutions are operating above board. Will the Taoiseach give an assurance that this can happen?

**The Taoiseach:** I can give an assurance that the Government is taking this matter very seriously. Yesterday I answered questions on it. I confirmed that the Garda was investigating a complaint in respect of an individual and that allegations had been made in regard to a second individual. The Garda has not come back to NAMA about that issue. This morning the Minister for Justice and Equality was advised by the Garda Commissioner that - I think people know this - there had been contact between NAMA and the Garda Síochána earlier this year with regard to another former employee. The Garda is awaiting a statement of complaint and supporting documentation. The Garda Commissioner also indicated that he had directed a senior officer to liaise with NAMA to ensure all of these matters of concern were fully pursued. I also understand the Committee of Public Accounts is in contact with NAMA about the investigations under way and that NAMA intends to assist the committee in so far as possible within the constraints of the ongoing Garda investigations. Where allegations of a criminal nature are made, the Garda is the appropriate authority to carry out the investigations.

The Deputy is aware that in respect of freedom of information requests, the Minister in a particular Department has neither sight of nor a function in what is agreed by the freedom of information officer in each Department to allow release. That is why there is an appeals system involving the Information Commissioner. It is not for the Minister to direct a freedom of information officer in any Department on what to release. The commissioner makes an independent decision in that regard.

The Deputy has made a serious point about an allegation that property valuations had been manipulated. I indicated yesterday that NAMA required the sale of all loans, properties and assets securing loans be conducted on a competitive and fully open market basis by suitably qualified and competent agents. In all these events NAMA insists on independent valuations of all assets. If an allegation is made of manipulation of valuations, it should be noted that NAMA requires an independent valuation of all loans, assets or properties dealt with. As I stated yesterday, a summary of a marketing campaign would be undertaken and all parties on a list expressing an interest in a loan or real estate would be contacted during the campaign. There would be a recommendation to accept the terms of the purchaser's offer, based on the best reasonably priced offer. There would be confirmation that the agent had reviewed the purchaser's confirmation and a statement disclosing any commercial relationship between the

agent, the debtor, the purchaser or the ultimate beneficial owners in the past five years, or how any actual or perceived conflict of interest had been managed during a sales process. When the legislation was introduced, NAMA was exempt from freedom of information requests by the Government of which the Deputy was a member.

**Deputy Micheál Martin:** With regard to the issue of clarity and freedom of information, the only reason the matter is with the appeals commissioner is that someone has objected to releasing all the files in regard to the request. The body that has objected is the Department of Finance. Only six out of 19 documents were released. All of the material should now be released in the interest of transparency and to generate confidence.

I am not casting aspersions on anybody but I believe it is important that there be certainty, trust and confidence. When one sees the Department of Finance withholding documentation that might relate to overtures or representations made by a very significant player to the Department, it appears as though people are hiding something and using freedom of information mechanisms to prevent material from getting out.

The Taoiseach said the Garda was awaiting information from NAMA on this issue. For how long has it been doing so? When does NAMA expect to be in a position to co-operate fully?

The Taoiseach referred to the Comptroller and Auditor General. The latter is on record has having said he does not have the capacity, in terms of staff or otherwise, to audit NAMA, given that it is such a big behemoth. That is a key issue for us. There is a 10% turnover of staff in NAMA, which in itself is causing significant issues for the agency. Does the State actually have the capacity and personnel to audit NAMA? This is a key point in our attempts to generate confidence and trust in the organisation and what it is doing. It is ultimately about the taxpayer.

**Deputy Regina Doherty:** The Deputy's party established NAMA.

**The Taoiseach:** Deputy Martin is well aware of the legislation that deals with the freedom of information system. Ministers in government do not have-----

**Deputy Micheál Martin:** I referred to the Department.

**The Taoiseach:** Is the Deputy talking about the Department or the freedom of information officer? Every Department has a freedom of information officer who deals exclusively with freedom of information requests. There is no contact between a freedom of information officer in any Department and the Minister or Minister of State. The officer makes his or her decisions independently. The law stipulates quite clearly that there is an appeals process, which is also independent. It might not be a good idea to get into the business of having Ministers state what should or should not be-----

**Deputy Billy Kelleher:** There was no mention of Ministers.

**The Taoiseach:** To be honest, I do not know the information that was released. I do not have access to it. I do not have any contact with NAMA.

**Deputy Micheál Martin:** It is approximately 15 months since the original request was made.

**The Taoiseach:** If a Topical Issue debate is requested of the Minister for Finance, he may have more information to give than I have. I do not have contact with NAMA, obviously.

**Deputy Timmy Dooley:** It is a bit more serious than a Topical Issue; it is not about a water scheme in Belmullet.

**The Taoiseach:** The law is very clear in so far as freedom of information officers and their responsibilities are concerned. The same applies to appeals.

The Minister for Justice and Equality confirmed that he was advised by the Garda Commissioner this morning that there had been contact between NAMA and the Garda Síochána earlier this year in regard to another former employee. That investigation is ongoing and will conclude whenever it concludes.

More recently, in August of this year, the Garda Síochána received a separate complaint from a firm of solicitors acting on behalf of a client. That related to the alleged disclosure of information by NAMA. The Garda has been awaiting the receipt of further documentation from the solicitors. The Garda will obviously fully investigate the matter if and when the information is sent to it. I cannot tell how long that will take or what information is involved.

I agree with the Deputy that we cannot allow activity of the kind alleged. One complaint is being followed through. Information was received in respect of the second but the Garda has not been in contact with NAMA about that. Obviously, it will follow it through if and when the information is presented. It is a matter of serious concern, given that NAMA has one of the largest property portfolios in the world.

**Deputy Gerry Adams:** The Minister for Health, Deputy James Reilly, has bypassed any meaningful democratic scrutiny of the HSE service plan by the Oireachtas by delaying its publication until the last sitting week of the year. As the Taoiseach knows, details of the plan were leaked before the Dáil had sight of it and before it could be discussed by the health committee. All the spin about health cuts, including the spin that cuts affecting medical cards would be smaller than previously signalled, does not impress anyone. I draw the Taoiseach's attention to the case of Merryn Lacey, a four-year-old girl from Donabate who is fighting stage 4 neuroblastoma, a very rare form of children's cancer. She is currently undergoing chemotherapy. Yesterday she had her application for a medical card rejected. There is also the case of Kate McShane, about whom I have talked to the Taoiseach before. She has Down's syndrome and needs long-term medical care. She is still being denied a medical card. What of those profoundly deaf children awaiting bilateral cochlear implants? I welcome cautiously the fact that €3.2 million has been allocated for them, but that sum is actually less than what is required. Does the Taoiseach accept that the only valid test of the HSE service plan - whenever we get around to discussing it - will be whether it results in these citizens getting the treatment and service to which they are entitled? Receiving the service is their right. Could the Taoiseach assure parents of seriously ill children and every other sick citizen that the HSE service plan will be such that they will get the treatment they deserve?

**The Taoiseach:** I explained this process to the Deputy before. The budget takes place and Votes go through in respect of the ceilings for each Department. The HSE prepares its draft report based on those figures and submits it to the Minister for Health. The Minister examines the draft proposition and recommends changes or amendments thereto, and he either signs off on it or does not. The Minister engaged in very careful consideration of the draft report by the HSE and made recommendations for changes to it. Following the amendment of the report, he approved the service plan for 2014.

The question of the €113 million that was allocated in respect of the probity issue concerning medical cards is one of serious importance for people around the country. The position was that when this was included in the budgetary figures in the first instance, it was subject to a process of examination. The Minister for Health examined this, in accordance with his duty, both from within the Department and from the point of view of the HSE. He found that the figure of €113 million in savings in respect of medical cards was not achievable. Owing to that, a change was brought about.

The position is that €47 million was available from the Department of Social Protection because of the drop in the number on the live register and savings made in that Department by its Minister, Deputy Joan Burton. Only 22 cards in the entire country were returned voluntarily because of changes of circumstances, such as somebody getting a better job or benefiting from a rise in income. There are more medical cards issued now than ever before. Therefore, the normal process of the validation of eligibility will continue. I do not suppose the Deputy is expecting me to say that the Minister should have changed the eligibility criteria for medical cards, because he did not do so. There will be an ongoing review of medical cards, as has always been the case. However, the figure that was included in the original budget was not acceptable to the Minister, so he changed it. That is a good thing.

**Deputy Billy Kelleher:** The Government made the cut. The Taoiseach should not be absolving himself.

**Deputy Gerry Adams:** I thank the Taoiseach for explaining to me once again how the HSE service plan is arrived at. I find that very instructive. Let me assure the Taoiseach that he does not have to explain it to me ever again. What he could do is answer the question I asked him, which was whether he will give assurances to the parents of seriously ill children that this new service plan will ensure that they get the services they require. I have explained to the Taoiseach before that it appears to me that the Minister for Health dreams up figures, cuts services and then at the end of the year comes back to the House with Supplementary Estimates of hundreds of millions of euro. All of this begs the question - from where did the Minister pull the original figures in the first place?

It goes without saying that any society, but particularly one which describes itself as a republic, should be judged on how it treats its most vulnerable citizens. I make the case that these children and other sick citizens are among the most vulnerable. I ask the Taoiseach again if he can give an assurance that this service plan, which I believe is a blueprint for greatly reduced services, will give our citizens the services they require. Whatever about the differences between the various figures that were given, the fact is that the health budget will be cut by over €600 million. Does the Taoiseach agree that over €600 million in cuts will have utterly devastating consequences for our citizens and our health services?

**The Taoiseach:** I agree that this will be a challenging year for the Department of Health, no more than for any other Department. I made it perfectly clear that the fact that the country has exited the bailout programme does not mean that everything is rosy in the garden. Deputy Adams, as the leader of the party of the impossible, is never going to be satisfied no matter how much is allocated to any particular sector. That is his job and that is fair enough.

The health service plan for 2014 has now been approved by the Minister for Health.

**Deputy Mary Lou McDonald:** We know that.

**The Taoiseach:** While this will be a challenging year, we expect that the Minister's philosophy of cutting costs but not front-line services will continue to be effective in the interests of patient outcomes, which is the most important element of any health service. Outcomes and the opportunities for patients to have the best level of service as close to home as possible are our focus. In the service plan for 2014 there are a number of new and important initiatives. A sum of €1.48 million has been provided to deliver patient-centred improvements in maternity care, which was raised in this House previously. There is an extra €8.3 million for the cancer area and an additional €2.92 million for organ donation and transplantation services. I had discussions with some well known people recently about the importance of the latter. A sum of €35 million has been provided for an additional 60,000 medical cards in 2014, while €37 million has been provided for free GP services for children under six. An additional €14 million has been provided to address priority needs in the disability area and €20 million has been ring-fenced for the recruitment of mental health staff.

**Deputy Mary Lou McDonald:** That is far below what is required.

**The Taoiseach:** The plan also provides €3.2 million to commence the sequential and simultaneous bilateral cochlear implant programme, with particular focus on those aged between five and six. That is an issue which Deputy Adams himself raised in this House. While we do not have all of the money to do all of the things we would like to do, these are key service initiatives which will take place in addition to effective delivery of front-line services for patients in 2014.

**Deputy Pearse Doherty:** Other patients will be paying for those services.

**Deputy Finian McGrath:** Front-line services are not being delivered.

*(Interruptions).*

**The Taoiseach:** I agree that it is challenging for the Department of Health but it is the commitment of this Government to continue to cut costs but not services.

**Deputy Joan Collins:** I wish to raise the Government's A Strategy for Growth document in which I found only two sentences relating to the issue of the retrospective recapitalisation of banks. The document is 66 pages long but there are only two sentences on page 26 relating to this crucial issue, which read as follows:

...the Eurogroup has agreed that retroactive recapitalisation may be agreed on a case-by-case basis as part of the European Stability Mechanism's Direct Bank Recapitalisation instrument (DBR). Significant work remains to be done on the details of this instrument.

We can only come to the conclusion from this that the Government has thrown in the towel and accepted that retroactive recapitalisation is not going to happen. The Taoiseach and his Government are accepting the situation where 40% of the cost of bailing out the EU banking system is being borne by this State, with only 1% of the population of the EU. Is the Taoiseach accepting the situation where each and every person in this State is saddled with €9,000 of bank debt as against an average of €200 per person in the rest of the EU? Does he think this is fair? I certainly do not think it is. This country has an unsustainable level of debt, amounting to €200 billion or almost 125% of our GDP. We are in a very precarious situation and are dependent on the international bond markets to be able to borrow at affordable interest rates. Ireland needs a growth rate of 4%, sustained over the next decade, to make this level of debt sustainable. Given the commitment of this Government to tight fiscal policies, we would need a very favourable

international economic climate to achieve that level of growth. There is no guarantee of this happening. What could and would make our debt sustainable is a debt write down on the €64 billion bank bailout. Does the Taoiseach agree that retrospective recapitalisation through the ESM would achieve that? This should be a key priority for the Government and not a footnote in its medium-term economic strategy.

Some Deputies in this House have not thrown in the towel. I instructed my legal team this morning to submit an appeal to the Supreme Court seeking to overturn the recent High Court decision on the promissory note and the Credit Institutions (Financial Support) Act of 2008.

**Deputy Timmy Dooley:** It looks like the Attorney General will be working over Christmas.

*(Interruptions).*

**The Taoiseach:** That was Deputy Mathew's speech there. He has made it on a number of occasions.

**Deputy Richard Boyd Barrett:** That is what the Government promised.

**Deputy Finian McGrath:** The Taoiseach should stand up to these people.

*(Interruptions).*

**The Taoiseach:** I did not realise that he had become the financial adviser to the Technical Group and others.

The mid-term economic strategy document published yesterday sets out the major signposts for what the Government hopes to achieve. Our aims are very clear and include reducing our debt and putting our people back to work. We are trying to restore the 330,000 jobs that were lost because of the incompetence and maladministration of the previous Government. Every Department will provide details in the new year of the proposals from the agencies for which they are responsible, within that framework.

**Deputy Richard Boyd Barrett:** What about the banks? The Taoiseach needs to answer the question he was asked.

*(Interruptions).*

**An Ceann Comhairle:** I ask Deputies to be quiet, please.

**The Taoiseach:** Previous Governments set out volumes of detail on objectives that were completely unachievable.

Deputy Collins asked about bank recapitalisation. Clearly, the successful sale of €2.05 billion in preference shares, including principal profit and accrued interest, by Bank of Ireland last week was important and a sign of confidence in itself. The State has now recouped a net positive cash return of €1.1 billion from its overall investment in and support for Bank of Ireland. That net cash return is before account is taken of the State's continuing equity investment in the bank, which is worth a further €1.2 billion at current market prices.

We dealt earlier this year with the constant barrage of comment about the promissory note and the liquidation of the former Anglo Irish Bank and Irish Nationwide. The question of bank recapitalisation is the subject of quite a deal of current discussion. Last night at the ECOFIN

meeting, EU Ministers for Finance continued to deal with central elements of this issue.

*(Interruptions).*

**The Taoiseach:** I have always said that dealing with the decision made last year regarding the possibility of the ESM being able to recapitalise banks directly could only happen after banking union is fully in place. It is not fully in place yet but the Deputy will be aware that the Eurogroup meeting of 20 June this year made the decision to which she referred, namely that the potential retroactive application of the instrument would be decided on a case-by-case basis and by mutual agreement.

I do not accept the Deputy's assertion that the Government has thrown in the towel on this. This is very much a live issue and the subject of complex and technical negotiations which are continuing. There is still a lot of negotiation to take place on this matter.

**Deputy Peter Mathews:** According to the Schäuble agenda.

*(Interruptions).*

**The Taoiseach:** We always said that when the Single Supervisory Mechanism was in place, involving all of the agreements required there, the question of retroactive recapitalisation on a case-by-case basis would be dealt with. Following the decision last year to break the link between sovereign debt and bank debt, the ECOFIN group has made substantial progress, which is to be commended and accepted.

**Deputy Peter Mathews:** For the future.

**The Taoiseach:** We will continue this process. When banking union is fully in place by the second half of next year, we will continue to make the case for implementation of the decision made on 29 June last year which still stands and which has been clarified on a number of occasions. At every opportunity the European Council has discussed it and the decision stands. That is an issue we can only deal with, as we have always pointed out, when the issue of banking union is dealt with and in place by the second half of next year.

I do not accept that the Government has thrown in the towel. The negotiations are quite complex and the argument will be made on a case by case basis. Many European countries have recognised the scale of the specific and particular circumstances this country has had to deal with and that they have to be taken into account in dealing with claims on a case by case basis.

**Deputy Joan Collins:** The Taoiseach started off by saying the document was a major signpost to economic recovery over six years. Two sentences refer to the recapitalisation of the banks. It is said it "may" be decided on a case by case basis. The issue is not high on the agenda, but it should have been at the forefront of the document that we demanded a write-down of the debt, on which everything depends. We are talking about a figure of €64 billion. We are depending on international bond markets and interest rates remaining low. The inflation rate will go up if the United States stops printing money. We require 4% growth in the next ten years and everything depends on outside factors. This is one area in which the Government has a responsibility to the people to take the €9,000 debt burden from around our necks and relieve the situation in order that we can then consider the provision of cochlear implants and the health service. I do not accept what the Taoiseach said.

**Deputy Finian McGrath:** That is right.

**Deputy Paudie Coffey:** We would do nothing at all if we were to listen to the Opposition.

**Deputy Joan Collins:** The Taoiseach has thrown in the towel. He has played footsie with the European Union; he should play hard ball.

**Deputy Ray Butler:** Deputy Peter Mathews is not always right.

**The Taoiseach:** I am not sure whether Deputy Peter Mathews gave Deputy Joan Collins that supplementary question, but the Government has not thrown in the towel. I have made it perfectly clear that there is a process that has to be gone through before we can deal with the specific negotiations. If the Deputy thinks one can go to a European Council meeting and say to 27 other leaders, "By the way, I want a cheque for €50 billion,"-----

**Deputy Joan Collins:** We bailed them out.

**The Taoiseach:** -----she is very naïve about the way in which negotiations are conducted.

**Deputy Ray Butler:** They bailed us out.

**Deputy John Halligan:** We bailed them out.

**An Ceann Comhairle:** Will Members, please, abstain from interrupting?

**The Taoiseach:** The fact of the matter is that for a number of years when the warning signs were there and they were indicated by this party in opposition-----

**Deputy Mattie McGrath:** I thought it wanted more.

**Deputy Billy Kelleher:** What warning signs?

**The Taoiseach:** -----the Government of the day failed to listen and act and put the noose around the neck of every single person in the country and lost 330,000 jobs in the process.

**Deputy Ray Butler:** There are two sides to the Opposition.

**Deputy Mattie McGrath:** Fine Gael wanted more and more.

**The Taoiseach:** We are going to clean up the mess. It might surprise Deputy Joan Collins to hear that from 1 January this year we had to deal during the six months of the Irish Presidency of the European Union with CAP reform, the reform of the Common Fisheries Policy, the banking union negotiations, the abortion legislation, the promissory notes, the Magdalen laundries, Priory Hall, the preparation of a budget and the exit from the bailout programme.

**Deputy Peter Mathews:** Let us work together.

**Deputy Timmy Dooley:** Even within Fine Gael.

**An Ceann Comhairle:** Members should sit back and listen to themselves.

**Deputy Mattie McGrath:** It is terrible.

**The Taoiseach:** This has been a good year for the people in dealing with much of the atrocious economic and social mess left behind by the previous Administration. We have not thrown in the towel and when banking union and the single supervisory mechanism are in

18 December 2013

place, as I said, potential retroactive applications will be decided on a case by case basis and by mutual agreement.

*(Interruptions).*

**An Ceann Comhairle:** Will Members, please, stay quiet?

**The Taoiseach:** That decision still stands and it is in that space that we will negotiate with our colleagues in Europe when banking union is fully in place.

**Deputy Noel Coonan:** Now Mattie; throw another sod on it.

**The Taoiseach:** That will happen in the latter half of next year.

**Deputy Peter Mathews:** Deputy Joan Collins is right - the matter should be at the top of the agenda.

**Deputy Paudie Coffey:** Peter's exit.

**Deputy Timmy Dooley:** Is Deputy Peter Mathews still independent?

**Deputy Peter Mathews:** Deputy Joan Collins presented the question. I had nothing to do with it.

**Deputy Timmy Dooley:** The Fine Gael Whip needs to have a private meeting with his members.

**Deputy Peter Mathews:** It is Deputy Joan Collins's initiative. I am only a listener, but I agree with her.

**Deputy Noel Coonan:** For a listener, the Deputy talks a lot.

*Written Answers follow Adjournment.*

### **Order of Business**

**The Taoiseach:** It is proposed to take No. *a*10, motion re presentation and circulation of Revised Estimates 2014; No. 20, statements on pre-European Council meeting of 19 and 20 December; No. 5, Appropriation Bill 2013 - Order for Second Stage and Second and Subsequent Stages; No. 19, Social Welfare and Pensions (No. 2) Bill 2013 [*Seanad*] - Report Stage (resumed) and Final Stage; No. *a*1, Pyrite Resolution Bill 2013 [*Seanad*] - Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that in the event that a division is in progress at the time fixed for taking Private Members' business, which shall be No. 42, Planning and Development (Transparency and Consumer Confidence) Bill 2013, the Dáil shall sit later than 9 p.m. and Private Members' business shall, if not previously concluded, be brought to a conclusion after 90 minutes; No. *a*10 shall be decided without debate and any division demanded thereon shall be taken forthwith; No. 20 shall be taken immediately following No. *a*10 and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 65 minutes and the following arrangements shall apply: the statements shall be made by the Taoiseach and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called upon in that order and may share their time and shall not

exceed 15 minutes in each case; a Minister or a Minister of State shall be called upon to make a statement in reply which shall not exceed five minutes; and the order shall resume thereafter with the Topical Issue debate; No. 5 shall be taken today and Second and Subsequent Stages shall be decided without debate by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Public Expenditure and Reform; the proceedings on Report and Final Stages of No. 19 shall, if not previously concluded, be brought to a conclusion at 5 p.m. by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Social Protection; the proceedings on Second Stage of No. *a1* shall, if not previously concluded, be brought to a conclusion at 7.30 p.m. and the following arrangements shall apply: the opening speech of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called upon in that order and who may share time shall not exceed 15 minutes in each case, the speech of each other Member called upon who may share time shall not exceed ten minutes, and a Minister or a Minister of State shall be called upon to make a speech in reply which shall not exceed five minutes; the following business shall be taken tomorrow after Question Time: Water Services (No. 2) Bill 2013 [*Seanad*] - Second Stage on which the proceedings shall, if not previously concluded, be brought to a conclusion at 2 p.m. tomorrow and the following arrangements shall apply: the opening speech of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called upon in that order and may share time shall not exceed 15 minutes in each case, the speech of each other Member called upon who may share time shall not exceed ten minutes, and a Minister or a Minister of State shall be called upon to make a speech in reply which shall not exceed ten minutes.

**An Ceann Comhairle:** There are seven proposals to be put to the House. Is the proposal for dealing with Private Members' business agreed to? Agreed. Is the proposal for dealing with No. *a10* agreed to? Agreed. Is the proposal for dealing with No. 20 agreed to? Agreed. Is the proposal for dealing with No. 5 agreed to? Agreed. Is the proposal for dealing with No. 19 agreed to?

**Deputy Gerry Adams:** It is not agreed.

**Deputy Derek Keating:** Aengus agreed to it.

**Deputy Gerry Adams:** The debate on the Bill is being guillotined. The discussion on the issue that has been led for Sinn Féin by Deputy Aengus Ó Snodaigh shows that when there is co-operation, the House can work very well. Many of the details are highly technical. They are also very important for pensioners. Accordingly, more time is needed to discuss the Bill. Will the Taoiseach allow for more time for these technical issues to be discussed and for the Opposition to work in co-operation with the Government to ensure pensioners' interests are protected?

**The Taoiseach:** There is very little time left in this. I expect, in normal circumstances, that this would finish before the appointed time.

Question, "That the proposal for dealing with No. 19 be agreed to", put and declared carried.

**An Ceann Comhairle:** Is the proposal for dealing with No. *a1* agreed to?

**Deputy Gerry Adams:** No, it is not agreed. It is technically the same point. This Bill, dealing with the significant issue of pyrite, which is important to citizens, is being rushed through. There is no real reason for rushing this Bill through.

**The Taoiseach:** This is an issue of grave concern to people in houses affected by pyrite, and a resolution is needed. This matter has been around for a long time but no one did anything about it. The Minister for the Environment, Community and Local Government has introduced the Pyrite Resolution Bill to move the matter on and show the people affected that the Government is actually acting in their interest. It has all been said on so many other occasions. Accordingly, I do not believe Deputy Adams should be attempting to hold up legislation as important as this.

**Deputy Phil Hogan:** Gerry does not care.

**Deputy Gerry Adams:** So long as it is done properly.

Question, "That the proposal for dealing with No. 1 be agreed to," put and declared carried.

**An Ceann Comhairle:** Is the proposal for dealing with No. 7 agreed to?

**Deputy Micheál Martin:** It is not agreed. I find it extraordinary that the Government proposes to allow only two hours of debate for Second Stage for the Water Services (No. 2) Bill tomorrow, with Committee and Report Stages to be given an hour and a half on the same day. It is an unprecedented level of guillotining of an important and substantial Bill.

This Bill has been significantly changed from the original one published by the Minister. It is significant in the sense that the prohibition on the privatisation of Irish Water and any reference to the Minister are removed from the legislation. This confirms our worst fears that the establishment of Irish Water was the beginning of the road to the privatisation of water provision.

**Deputy Brian Stanley:** It was Fianna Fáil's idea in the first place

**Deputies:** Hear, hear.

**Deputy Micheál Martin:** In addition to that-----

**An Ceann Comhairle:** We are only dealing with time element.

**Deputy Micheál Martin:** -----a provision relating to an independent assessment by the Environmental Protection Agency has also been removed.

**An Ceann Comhairle:** Sorry, Deputy Martin; we are only dealing with the amount of time allocated. The Deputy is raising Second Stage stuff.

**Deputy Micheál Martin:** I am just making the point that it is a substantive Bill that demands serious consideration by the House. We are being allocated only two hours for Second Stage and one hour and 40 minutes for Committee Stage.

**Deputy Paul Kehoe:** It is all Deputy Martin's party's fault.

**Deputy Micheál Martin:** We had a meeting this morning with the Taoiseach about Seanad reform. We were promised a whole lot of stuff about Dáil reform, accountability and meaningful consultation but it all counts for nothing when Bills such as this - it is controversial from the Government's perspective because it brings in a mechanism for water charges - are rushed through. How come Bills dealing with social welfare, property tax-----

**An Ceann Comhairle:** The Deputy has made his point. We are only having a short discus-

sion on the time allocation on the Order of Business.

**Deputy Micheál Martin:** -----and water charges are just rammed through the Dáil in three hours? Where is the room for amendments there? Why can the Taoiseach not put Committee Stage back to January or February? Why is it being rushed through?

**Deputy Ray Butler:** Is Deputy Martin a gospel preacher?

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Micheál Martin:** Deputies opposite are laughing. If that is their concept of democracy in the House, then fine. They cannot go on pretending they are achieving a democratic revolution, because they are not. This flies in the face of any commitment by the Government to meaningful Dáil reform.

**Deputy Ray Butler:** We have brought in real Dáil reform.

**An Ceann Comhairle:** I remind Deputies that the rule is that Opposition Leaders can only ask why sufficient time is not given to a Bill. We do not debate Bills' contents on the Order of Business. I call Deputy Adams.

**Deputy Gerry Adams:** When Sinn Féin objects to some proposals on the Order of Business, it is not because we are trying to hold it up but to ensure proper scrutiny. On this particular Bill, which is highly controversial and technical, there is no reason the Taoiseach cannot extend the legislative deadline. There are issues with regard to the transfer of assets from local government to Irish Water, as well as implications for staff pension liabilities and services. It is being rushed through so it can become law in the new year. Why can we simply not extend it to make sure it is dealt with properly?

**Deputy Joe Higgins:** May I object as well?

**An Ceann Comhairle:** No, you may not.

**Deputy Joe Higgins:** This is a Bill providing for a new draconian tax on ordinary householders, not just for their water in but for their wastewater out.

**An Ceann Comhairle:** Please resume your seat, Deputy Higgins.

**Deputy Joe Higgins:** It is quite incredible that the Government is lashing this Bill through.

**An Ceann Comhairle:** Please resume your seat, Deputy Higgins. I have called the Taoiseach.

**The Taoiseach:** The reason the Bill is going through is that it is necessary to transfer the assets and the liabilities to Irish Water by 1 January 2014. I remind Deputy Martin-----

**Deputy Billy Kelleher:** It is not.

**The Taoiseach:** -----that while his party might have favoured privatisation for several reasons, it is specifically written into this legislation that it would require a change of government policy and would have to be approved by the Oireachtas.

**Deputy Brian Stanley:** It is about privatisation.

18 December 2013

**Deputy Micheál Martin:** The Government has deleted the key section in this regard.

**The Taoiseach:** There will be other Bills dealing with elements of water services which will be introduced by the Minister for the Environment, Community and Local Government. This Bill deals with the transfer of assets and liabilities-----

**Deputy Aengus Ó Snodaigh:** The Seanad had more time to debate this Bill than the Dáil. It is an insult to Members.

**The Taoiseach:** It is necessary that the Bill be approved by 1 January 2014. I am sure Deputy Ó Snodaigh does not want to be here next week or the week after.

**Deputy Aengus Ó Snodaigh:** The Taoiseach obviously has no problem being here next Wednesday.

**Deputy Micheál Martin:** It can be dealt with in January. This proposal is a joke.

**Deputy Barry Cowen:** That is old bluff.

**Deputy Seán Crowe:** Will we bring Santy in with us?

**Deputy Aengus Ó Snodaigh:** Why not change the deadline to 31 January 2014?

**The Taoiseach:** They must be transferred by 1 January 2014 and that is why we are dealing with the Bill this week.

**Deputy Joe Higgins:** This is shameful.

Question put: "That the proposal for dealing with No. 7 be agreed to."

<i>The Dáil divided: Tá, 75; Níl, 50.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bruton, Richard.</i>	<i>Adams, Gerry.</i>
<i>Burton, Joan.</i>	<i>Boyd Barrett, Richard.</i>
<i>Butler, Ray.</i>	<i>Broughan, Thomas P.</i>
<i>Buttimer, Jerry.</i>	<i>Calleary, Dara.</i>
<i>Byrne, Catherine.</i>	<i>Collins, Joan.</i>
<i>Byrne, Eric.</i>	<i>Collins, Niall.</i>
<i>Cannon, Ciarán.</i>	<i>Colreavy, Michael.</i>
<i>Carey, Joe.</i>	<i>Cowen, Barry.</i>
<i>Coffey, Paudie.</i>	<i>Crowe, Seán.</i>
<i>Collins, Áine.</i>	<i>Daly, Clare.</i>
<i>Conaghan, Michael.</i>	<i>Doherty, Pearse.</i>
<i>Connaughton, Paul J.</i>	<i>Donnelly, Stephen S.</i>
<i>Coonan, Noel.</i>	<i>Dooley, Timmy.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Ellis, Dessie.</i>
<i>Costello, Joe.</i>	<i>Ferris, Martin.</i>
<i>Creed, Michael.</i>	<i>Flanagan, Luke 'Ming'.</i>
<i>Deasy, John.</i>	<i>Fleming, Sean.</i>

<i>Deenihan, Jimmy.</i>	<i>Fleming, Tom.</i>
<i>Doherty, Regina.</i>	<i>Halligan, John.</i>
<i>Donohoe, Paschal.</i>	<i>Healy, Seamus.</i>
<i>Dowds, Robert.</i>	<i>Healy-Rae, Michael.</i>
<i>Doyle, Andrew.</i>	<i>Higgins, Joe.</i>
<i>Durkan, Bernard J.</i>	<i>Kelleher, Billy.</i>
<i>English, Damien.</i>	<i>Kirk, Seamus.</i>
<i>Farrell, Alan.</i>	<i>Kitt, Michael P.</i>
<i>Feighan, Frank.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Ferris, Anne.</i>	<i>Martin, Micheál.</i>
<i>Fitzpatrick, Peter.</i>	<i>Mathews, Peter.</i>
<i>Flanagan, Charles.</i>	<i>McConalogue, Charlie.</i>
<i>Harrington, Noel.</i>	<i>McDonald, Mary Lou.</i>
<i>Harris, Simon.</i>	<i>McGrath, Finian.</i>
<i>Heydon, Martin.</i>	<i>McGrath, Mattie.</i>
<i>Hogan, Phil.</i>	<i>McGuinness, John.</i>
<i>Humphreys, Heather.</i>	<i>McLellan, Sandra.</i>
<i>Humphreys, Kevin.</i>	<i>Murphy, Catherine.</i>
<i>Keating, Derek.</i>	<i>Naughten, Denis.</i>
<i>Kehoe, Paul.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Kenny, Enda.</i>	<i>Ó Fearghail, Seán.</i>
<i>Kenny, Seán.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Kyne, Seán.</i>	<i>O'Brien, Jonathan.</i>
<i>Lawlor, Anthony.</i>	<i>O'Dea, Willie.</i>
<i>Maloney, Eamonn.</i>	<i>O'Sullivan, Maureen.</i>
<i>McEntee, Helen.</i>	<i>Pringle, Thomas.</i>
<i>McGinley, Dinny.</i>	<i>Ross, Shane.</i>
<i>McHugh, Joe.</i>	<i>Shortall, Róisín.</i>
<i>McLoughlin, Tony.</i>	<i>Smith, Brendan.</i>
<i>McNamara, Michael.</i>	<i>Stanley, Brian.</i>
<i>Mitchell O'Connor, Mary.</i>	<i>Timmins, Billy.</i>
<i>Mulherin, Michelle.</i>	<i>Tóibín, Peadar.</i>
<i>Murphy, Dara.</i>	<i>Wallace, Mick.</i>
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	

<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Shatter, Alan.</i>	
<i>Sherlock, Sean.</i>	
<i>Stagg, Emmet.</i>	
<i>Tuffy, Joanna.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Seán Ó Fearghail.

Question declared carried.

**Deputy Micheál Martin:** It is extraordinary that the Taoiseach has published the health service plan today and has deliberately avoided any opportunity for the House in plenary session to debate what by any measure is a substantial Estimate which illustrates how the books were cooked on budget day and how we were deliberately given false figures which did not last a couple of weeks and which went through some verification process. Now we have some figures which, again, are unspecified in the health service plan. My real concern is the impact it will have on people working on the front line across the country.

**An Ceann Comhairle:** We are not debating the health service plan.

**Deputy Micheál Martin:** Will the Taoiseach undertake to give time tomorrow in the House to debate the health service plan at plenary session? Why did he so cynically choreograph business to avoid any meaningful debate on a set of Estimates on health that have been proved to be bogus from the outset when they were presented to the House on budget day?

**The Taoiseach:** This is an extensive service plan dealing with an expenditure of over €13 billion and it is important that everybody understands the full range of opportunity and challenge set out in the health service plan. Last week the Oireachtas committee on health decided it would do a full analysis of this at its first meeting in January. Following that if Deputy Martin still wishes to have a plenary debate here in the House having digested all the elements of the plan, I will be happy to oblige him.

**Deputy Billy Kelleher:** There should be a plenary session on the false Estimates.

**Deputy Gerry Adams:** Tá ceist agam maidir le reachtaíocht atá forógraithe. The Protected Disclosures Bill went through the Seanad last month but has yet to come before the Dáil. The very serious allegations on NAMA underline the importance of legal protection for whistleblowers. The programme for Government commits to the introduction of whistleblower legislation and there is some concern that it will not be brought before the Dáil in the new year. Will the Taoiseach give a commitment that the Protected Disclosures Bill will be brought before the Dáil as early in January as possible?

**The Taoiseach:** The Committee of Public Accounts has been in contact with NAMA and NAMA is willing and wishes to engage with that committee, which is important. This legislation has gone through the Seanad and is awaiting Second Stage, which will be taken early in the next session. The Whips will make arrangements for that.

**Deputy Niall Collins:** Last night, RTE's "Prime Time Investigates" broadcast a dramatic documentary on the questionable activities of a charity, Victory Outreach, which has potentially far-reaching consequences in that a liability may accrue to the State on foot of the State's probation services referring people to these charities. In light of what is going on with that charity and other activities which are coming to light in the charity sector, when will we have the charities regulation Bill before the House?

**The Taoiseach:** The Charities Act was enacted in 2009. It provides for a system of registration and regulation of the charities sector in the country. As part of that an independent charities regulator authority is to be established. That authority will be responsible for the establishment and maintenance of a public register of charities. The Minister for Justice, Equality and Defence has indicated that this will be early in the next session but I will confirm that to Deputy Niall Collins.

**An Ceann Comhairle:** I am afraid the time has expired for the Order of Business. We will have to wait until tomorrow.

**Deputy Billy Timmins:** On a point of order, is there an assurance that those who want to speak on the Order of Business tomorrow will have the opportunity?

**An Ceann Comhairle:** There is no assurance whatsoever.

**Deputy Billy Timmins:** Will it be the exact same?

**An Ceann Comhairle:** If there is a vote on the Order of Business I cannot give an assurance. I do not know.

**Deputy Billy Timmins:** Should there be a policy that there be no votes on the Order of Business?

**An Ceann Comhairle:** Maybe so, but I suggest Deputy Timmins put that to the Committee on Procedure and Privileges. I only apply the rules, as Deputy Timmins knows.

### **Presentation and Circulation of Revised Estimates 2014: Motion**

**The Taoiseach:** I move:

That, notwithstanding Standing Order 159 of the Standing Orders of Dáil Éireann rela-

18 December 2013

tive to Public Business, Revised Estimates for the Public Services for the year ending 31st December, 2014, be presented to the Dáil and circulated to Members and be referred to Select Committees or sub-Committees, as appropriate, pursuant to Standing Orders 82A(3)(c) and (6)(a) and 159(3) and paragraph (8) of the Orders of Reference of Select Committees.

Question put and agreed to.

### **Pre-European Council Meeting: Statements**

**The Taoiseach:** As I will be at the European Council Meeting in Brussels tomorrow, on behalf of the Government I wish Members on all sides of this House, Members of the Upper House and everyone who works here in Leinster House a happy and peaceful Christmas. I thank the Ceann Comhairle for his patience in some difficult and contentious issues that were raised here over the past 12 months. I thank his team here who ensure the House functions as a modern, efficient Parliament. They put in very long hours. I also thank the Captain of the Guard and the Superintendent for the work they do in presenting the House to the public. I thank everybody involved in the running of the Houses of the Oireachtas for their services and courtesy.

The European Council in Brussels tomorrow and Friday will be the first Council since Ireland successfully exited our international bailout. I will inform my European colleagues that this success was due to the sacrifices and perseverance of the Irish people. As the first eurozone country to successfully exit a bailout it is an achievement not only for Ireland but for Europe. It is also the final Council of the Lithuanian Presidency. Lithuania, together with Ireland and Greece, form the current trio Presidency group. I congratulate Lithuania on a successful maiden Presidency and wish Greece well with its impending Presidency.

This month the European Council has a very substantive agenda, with a number of very important issues to be discussed. The main items on the agenda are: the common security and defence policy, CSDP; economic and social policy, including implementation of the compact for growth and jobs, SME financing and taxation; economic and monetary union, EMU, including banking union; migration flows; and enlargement. Leaders will also take note of progress reports on the implementation of the internal energy market and on external energy relations. We will revert to energy policy in the spring.

The European Council will also welcome the successful outcome of the recent WTO Ministerial Conference in Bali. In addition we will discuss the ongoing and very serious humanitarian situation in Syria. The Minister of State at the Department of Foreign Affairs, Deputy Donohoe, will provide more detail on this in his contribution. I expect the European Council might also look at recent developments in the Central African Republic and in relation to Ukraine and the eastern partnership.

My main priority for this Council meeting will be banking union. I welcome the fact that President Van Rompuy has also identified this as the top priority. As I have said here and elsewhere on many occasions, timely delivery of what we have already agreed in this area is a key credibility test for the Union. Finance Ministers continue to work on these issues and there are some indications of progress overnight from Brussels. A good and balanced agreement will be important for Europe and for Ireland.

On the common security and defence policy, conclusions were agreed by foreign and defence Ministers in their meeting on 18 and 19 November. We will be seeking to maintain a strong focus on enhancing the effectiveness of CSDP tomorrow. In his letter to Heads of State and Government, President Van Rompuy has set out what he sees as the key priority issues for the remainder of his term and that of the European Parliament. He emphasised the need to begin implementation of the youth employment initiative and the SME financing initiative from 1 January next. I welcome the fact that we will have discussions on these at the European Council.

I fully share the President's emphasis on the importance to the credibility of the Union of implementation of all of our commitments. Now more than ever as we prepare to ask people to vote for their representatives in the European Parliament elections, the public needs to see that we follow through and act on our commitments at European level.

The European Council will open with a discussion on the Common Security and Defence Policy, CSDP. This will be the first significant discussion on it in five years and it will provide an opportunity for a serious strategic discussion on what the EU and member states should do to maintain critical capabilities. In December 2012, the European Council reiterated its commitment to enhancing the effectiveness of the CSDP as a tangible EU contribution to international crisis management. Leaders invited the High Representative, with the European External Action Service and the European Defence Agency, as well as the Commission, to develop further proposals and actions to strengthen CSDP. We agreed to return to this issue at the December 2013 European Council, on foot of the work undertaken in the interim by the Commission and the High Representative. In July, the Commission published its communication and High Representative Ashton published her final report in October. These contributed to the conclusions agreed last month, which themselves inform the draft conclusions for the European Council.

As a strong and active supporter of CSDP, Ireland recognises the need to improve the effectiveness and visibility of EU action in this area. We currently participate in six civilian CSDP missions and three military CSDP missions. We consider that it is important for a correct balance to be struck in the conclusions between civilian and military CSDP and we wish to see the comprehensive approach to crisis management duly reflected in the December European Council outcome. We have also sought to ensure that the crucial role of the UN and regional partners is highlighted. The Minister of State will expand on this element of the European Council agenda in his contribution.

The work we do to shape our economic and social policy could not be more urgent. This week we will conclude the preliminary phase of the European Semester for 2014 by welcoming the annual growth survey and the alert mechanism report presented by the Commission on 13 November. The challenge now facing Europe's economy lies in sustaining a fragile recovery. We fully support the Commission's continued emphasis on five main priorities over the coming year: pursuing differentiated, growth-friendly fiscal consolidation; restoring lending to the economy; promoting growth and competitiveness for today and tomorrow; tackling unemployment and the social consequences of the crisis; and modernising public administration. This is the fourth European semester cycle, the third under the enhanced governance arrangements introduced by the six-pack, and the first under the further enhancements introduced by the two-pack. Ireland, of course, having successfully completed our EU-IMF programme, will be participating in the 2014 European semester.

We will also review the compact for growth and jobs which was agreed in June 2012. This

represents an important reinforcement of political commitment to doing what is necessary to support recovery in the real economy. This is as important today as it was in June last year. The December Council will take stock of progress under the compact, in particular in regard to mobilising enhanced EIB lending capacity, implementing youth guarantees and finalising outstanding Single Market files.

The compact for growth and jobs provides a clear framework for actions at three levels. First are the actions to be taken at the level of member states. This means renewed attention to the Europe 2020 strategy and the enhanced economic governance arrangements underpinning the European semester. The December European Council will, in light of the annual growth survey and alert mechanism report, identify the main areas for co-ordination of economic policies and reforms over the period ahead. Second is the contribution of European policies to growth. This means keeping up strong momentum in the work taken forward by the Irish Presidency towards deepening the Single Market, expanding the Union's external trade relations, and accelerating progress on banking union. The compact also provided for a €10 billion increase in the paid-in capital of the European Investment Bank, EIB. Third are EMU-related growth factors. This means further development of the work on the 'four essential building blocks' for strengthening the economic and monetary union. It is clear that Europe will have recovered from the current crisis only when its economies are growing again and creating jobs. The compact sets out very clearly what we need to do to support this recovery. We must ensure that it is implemented.

I expect there will be a particular focus in discussions on measures to underpin the financing of the economy. This follows the investment plan which the European Council agreed in June, mobilising the €10 billion increase in the capital base of the EIB. This will support a 40% increase in lending capacity up to 2015, bringing annual EIB lending volumes to between €65 billion and €70 billion. The report from the Commission and EIB that was presented in June indicated that the bank had already identified new lending opportunities of more than €150 billion in agreed priority areas such as innovation and skills; SME access to finance; resource efficiency; and strategic infrastructures. These are projects that would be unlikely to proceed without EIB support.

The investment plan also develops important synergies between enhanced EIB lending capacity and the new EU budget settled by the Irish Presidency. Resources here will be combined to support a significantly expanded volume of new SME loans across the Union. Work being led by Ministers Howlin and Noonan will see almost €1.2 billion worth of EIB project signatures and loan approvals in Ireland in 2013. This represents an increase of just over one-fifth on 2012 levels, which were in turn up more than four-fifths on the previous year. We also see room for further progress here, building from the successful reopening in April of the Irish PPP market -for the first time since 2007, and for restoring normal lending conditions across the economy generally.

The Council will also touch on the continuing work at European and national levels to tackle the scourge of youth unemployment. Work is continuing to ensure our initial youth guarantee implementation plan ready before the end of this year. This work is being led by the Department of Social Protection and supported by the OECD. Preparations are on track. Job creation is, of course, a vital pillar of our new medium term economic plan.

The December European Council will also aim to reinforce momentum under Single Market Acts I and II. In that regard, the EPSCO agreement last week on a general approach on posted workers is a welcome development. On 2 and 3 December, the Competitiveness Coun-

cil identified three main strands that will lead to a better functioning of the internal market, the governance of the single market, the steps to be taken to unlock the full potential of the services sector and the actions to promote the transition to electronic procurement.

Heads of State and Government are also expected to review actions undertaken since May in the area of taxation by ECOFIN and the Commission. In May, the European Council highlighted the need for effective steps to fight tax evasion and fraud and called for rapid progress on a number of issues, including extension of the automatic exchange of information; an action plan on strengthening the fight against tax fraud and tax evasion; and, the directives on the VAT quick reaction mechanism and on the VAT reverse charge mechanism. The European Council also pointed out that these issues must be tackled at a global level and linked this work to ongoing work in the G8, G20 and, most importantly, the work already under way at the OECD.

The OECD's global forum on transparency and exchange of information for tax purposes confirmed on 22 November that Ireland is one of 18 out of 50 countries or jurisdictions, and one of six EU member states, which are fully compliant with regard to practical implementation of the forum's information exchange standard. At the October Council, these issues were raised again in the context of the digital sector, and the Council welcomed the Commission's establishment of an expert group on taxation of the digital economy. I am pleased to report that an Irish woman, Ms Mary Walsh, has been appointed to the group. She is a chartered accountant and served on our Commission on Taxation.

Ireland welcomes the establishment of the expert group and we hope it will be able to assist the EU in tackling this issue. It is clear that the digital economy has moved at a pace that international tax rules may not have fully kept pace with. An expert analysis of these new business models is needed to ascertain where the economic substance and value and income producing activities lie and to consider to what extent international tax rules are still fit for purpose. This is already happening as part of the OECD BEPS task force on the digital economy. We support this initiative.

For our discussion on the shared analysis of the European economy based on the 2014 annual growth survey, and on economic and monetary union, we will be joined by ECB President Draghi. Clearly, the establishment of a banking union is a major political priority and will be a landmark in the evolution of the economic and monetary union. The first step in creating the banking union was taken with the recent adoption by the Council and the European Parliament of the single supervisory mechanism, SSM. The SSM has now entered into force, and the ECB will take over its full tasks under the regulation, exercising direct supervisory responsibilities from November 2014.

As part of the transition to the SSM, a balance sheet assessment will be conducted, comprising a supervisory risk assessment, an asset quality review and subsequently a stress test. The purpose of this exercise is to ensure that banks are appropriately capitalised going forward. The ECB, before assuming its supervisory role in November 2014, will provide a single comprehensive disclosure of the results and any recommendations for supervisory measures to be undertaken by banks. As part of the troika programme, the Irish banks had to complete asset quality reviews before the bailout exit earlier this week. Earlier this month, Bank of Ireland, Allied Irish Banks and Permanent TSB informed markets that, following the asset quality reviews, they were well capitalised and passed minimum capital requirements.

The agreement reached between the Presidency and the Parliament last week on the bank

recovery and resolution directive is another welcome step in putting together banking union. There has been progress on the deposit guarantee scheme. Ministers for Finance are in Brussels with a view to reaching agreement on the single resolution mechanism, SRM. There are some positive signs emerging from these discussions. They include agreement that a common backstop will be developed during the transition period of the SRM and that the banking sector will ultimately be liable for repayment. This is fundamental and welcome. Work is continuing on governance arrangements, including voting rights for the single resolution board. Again, we will continue to press for our concerns to be addressed. This is a complex and sensitive task. Each member state has a vested interest in seeing a good and balanced outcome. I know that the Minister, Deputy Michael Noonan, and his ECOFIN colleagues are working very hard to find the right way forward. Ireland supports a broad scope for the SRM and the creation of a single fund which should also have a credible EU level backstop. The combination of a single fund and the backstop will assist in achieving the objective established by the Heads of State and Government of breaking the link between the sovereign and the banking sector. As I mentioned, indications overnight from Brussels are positive. After all, that is the point of the exercise. Moreover, it is what we have committed to do.

With regard to partnerships for growth, job creation and competitiveness, the Council agreed in October that work would be taken forward to strengthen economic policy co-ordination on the main features of a proposal to introduce contractual arrangements and associated solidarity mechanisms. While a great deal of work has been done and good progress has been made, significant divergences of opinion remain on these proposals. This is a serious business if we are to commit member states to new binding arrangements. We want to ensure we get this right and should not rush to make decisions if there is a need to elaborate further on the nature, process and impact of such contracts. Any new contractual arrangement should operate within the framework of the existing European semester process. A number of economic governance instruments have been in operation since the adoption of the six pack and the two pack and we should approach this entire debate from the perspective of adding value to the existing framework, where appropriate, and avoiding duplication. Further discussion and clarification are required on central issues such as the nature of the proposed contractual arrangements and whether they would be mandatory or voluntary, the source of funding for the proposed solidarity mechanism, how we can encourage participation and to which policy areas the contracts might eventually apply. These are very necessary.

The precise roles in the process of the member states, the Council and the Commission also need to be defined. As a supporter of the Community method, Ireland welcomes the proposal that the Commission monitor compliance with the contractual obligations by recipient member states. However, we will need clarity on the respective roles of the Commission and the Council. Overall, I would like to see far more detail on these proposals before we make hard and fast decisions. Many other member states share this view. I believe we will return to this matter again in 2014.

I undertand my time is up.

**An Ceann Comhairle:** I will allow for the fact that some of the time was used for goodwill wishes.

**The Taoiseach:** Following the drowning tragedy off the Italian island of Lampedusa on 3 October in which several hundred African migrants lost their lives, the Justice and Home Affairs Council in October invited the Commission to establish a task force to identify priority

actions with a view to preventing a recurrence of such tragedies. I discussed the tragedy with Prime Minister Letta of Italy recently and have committed to support all efforts at the European Council to address the awful circumstances which led to such a shocking outcome. Like all other member states, Ireland participated in the meetings of the task force on the Mediterranean and we support the conclusions reached in the task force's report. We agree that the best approach to this multifaceted problem is to focus on prevention and engagement with countries of origin.

The December Council will have its traditional annual discussion on enlargement, reviewing progress in the past year and looking ahead to the prospects for next year on the basis of the European Commission's progress reports and discussions in the General Affairs Council. Enlargement remains one of the European Union's most successful policies, fostering peace and security in the wider European region. Overall, we look forward to an ambitious EU enlargement strategy for 2014. The Minister of State, Deputy Paschal Donohoe, will provide further detail on this element.

The attention of the Heads of State and Government will also be drawn to work on energy matters. This is a key area for all economies in Europe which we will address in more detail in the spring.

The European Council may discuss recent developments in the Central African Republic. We have seen in recent weeks an alarming breakdown in law and order and basic social structures in the country and a worrying increase in intercommunal violence and gross violations of human rights. The European Union's primary focus on the security front is centred on providing support for the African Union and French efforts. We will continue to monitor the position in the coming weeks to see if and how the range of crisis management tools at the European Union's disposal which includes the Common Security and Defence Policy can be of further assistance.

The European Council will consider what happened at the Vilnius eastern partnership summit on 28 and 29 November and the current situation in Ukraine. I have been following the unfolding events in Ukraine with growing concern, in particular, the actions of the Ukrainian police to break up the peaceful protest of citizens in Kyiv. The rights to freedom of expression and freedom of assembly are enshrined in the European Convention on Human Rights and are fundamental in any society. I strongly believe they should be fully respected by the Ukrainian authorities. I again call on them to exercise restraint, respect peaceful protest and ensure all avenues of dialogue are kept open.

I understand President Tusk will update leaders on the outcome of the UN climate change conference, COP19, held in Warsaw last month.

As I stated, we have a very full agenda and I look forward to productive discussions in the days and nights ahead. I will, of course, return to the House to discuss the outcome of the European Council when we reconvene in the new year. In the meantime, I wish all Deputies and staff a very happy Christmas. I thank the Ceann Comhairle for his indulgence.

**Deputy Micheál Martin:** I wish the Taoiseach a very happy and peaceful Christmas. I will do my best to ensure it is peaceful. I also wish the Ceann Comhairle a happy and peaceful Christmas, free from the cacophony of sound which often emanates from the House in his direction. I wish the Captain of the Guard, his staff and all of the officials who have been supportive

of debates and committee meetings a happy Christmas.

On 12 October the Taoiseach used the Fine Gael national conference to launch a three month long media campaign, of which last week was the high point. During this time seemingly endless parades of so-called exclusive interviews and background briefings have been used to present a selective and misleading picture of the Government's actions. There will be many other opportunities to discuss these and already we are seeing key claims being exposed. With the exception of the Taoiseach's cynical and untrue statement that Ireland has not been a full member of the European Union for the past three years, he and colleagues have laboured very hard to avoid discussing the European dimension of Ireland's crisis. As it does not help with domestic party politics, the central role of the European Union in most aspects of the crisis in the past five years has been ignored. What makes this serious is that the Government is deliberately ignoring issues which are central to long-term growth in Ireland. Some of these issues are on the agenda for this week's summit and it is now clear that what will be agreed will mean that Ireland has not received a proper response to its case and that key flaws which led to the crisis will be maintained.

The Taoiseach has regularly told international audiences that every element of Ireland's problems lies with his political opponents. He let the mask slip only once when he stated in Paris last year that Ireland was the first and only country which had a European position imposed on it in the sense that there was no opportunity for the Government to do it its way, if it so wished, by burning bondholders.

**The Taoiseach:** I said it here, too.

**Deputy Micheál Martin:** By contrast the Minister for Finance, Deputy Michael Noonan, has stated this on a number of occasions, including last week in *The Irish Times*, although it has received little or no notice. Time and again independent experts have stated European policies, or rather their failures, were directly linked with Ireland needing a bailout in 2010. The ESM and the policies of Mario Draghi at the European Central Bank have changed a lot. The large spike in bond yields which followed comments of President Sarkozy and Chancellor Merkel was predicated on the idea that no backstop was available. While the new funds and policies are incomplete, they have greatly reduced any risk in investing in euro area sovereign bonds.

The scale of the crisis in the eurozone, in large part, stems from the failure to have a common system of financial regulation. This has led to uncertainty and contagion, with countries such as Ireland obliged to act in the interests of the entire eurozone, with a sharing of the costs. A strong banking union is not only important, it is also essential if the eurozone is to have a strong financial system which supports rather than destroys growth. There are three core elements to a genuine strong banking union. They include a common supervisory mechanism, which means that all financial institutions operate subject to uniform and effective oversight. The second is a common resolution mechanism, which means that individual institutions can be wound down without a risk of contagion, including certainty about who will be burned, and the third is a common deposit guarantee fund, which ensures no individual part of the financial system can be swamped by limited bank failures. With most of the political agreements in place, we know that we will have a system called "banking union" but we will not have banking union. Anyone who cares about the future of the eurozone and wants it to be stable and prosperous must be concerned by what will be formally agreed at this week's summit. National interests have prevailed on nearly every key decision. The core principle of sharing risk so that risk is minimised has been ignored.

There are elements of progress but nothing on the scale of what should have been agreed. The key parts of the new so-called banking union will cover 128 banks in total. Many banks that have the capacity to cause systemic problems will not be covered. The proposed single supervisory mechanism has the most potential to grow into a strong and effective policy. It will initially be more about co-ordination than common supervision but it is likely that the ECB will push it towards a more active stance. The effort to retain national influence has been successful for the moment. Over time Ireland should join the ECB in calling for the removal of any possibility of governments interfering in oversight matters. That should be independent.

The summit will formally sign off on an agreed method for winding down banks and paying off residual debts. The objective for this was set by the Taoiseach and others as being to break the toxic link between sovereign and banking debt. Even the most partisan commentators must admit that this link has clearly not been broken. To break the link between them, there must be no expectation that the state has an implicit guarantee to fund banks in trouble. This requires the availability of a large backstop of funds and this will not be available. The bank resolution fund the Taoiseach will agree over dinner tomorrow night will take ten years to build up its holding. After a decade, it will have €55 billion available to it. This has been estimated at only 0.2% of the total asset base of the covered banks. The fund could realistically cover no more than one or two mid-size banks. Breaking the link between sovereign and banking debt needs something else such as an ECB guarantee to underpin the system but this is not available in part because of splits in the bank but also because some countries, in particular Germany, have threatened to take the bank to court if it provides the required guarantee.

An evaluation of the banking agreements to be finalised this week published in Monday's *Financial Times* stated:

Without a backstop, there is no point. It is not a banking union and should be rejected.

I would not go this far but I believe Ireland should not agree this as a final deal. At a minimum, we should put on the table the need for a formal commitment that the funds available for safeguarding the banking system of the euro should be greater than 0.2% of its asset base.

In the two years that a banking union has been debated, the Government has refused to say publicly what it wants from the process. There is no public record of any statement by the Taoiseach setting out what would be required "to break the toxic link between banking and sovereign debt". This enables him to hail anything that emerges as a great victory, something which has become a standard tactic for him in Europe. Is he happy with this deal? Does he believe it represents the banking union we were promised originally? He has been notably silent on the statement of the Minister of Finance that he has effectively given up on retrospective bank recapitalisation and he is not worried about it. This is a complete reversal of the policy of the past three years and it is not good enough that this has been allowed to be buried under the weight of the Government's ongoing media campaign.

A commentator recently described the Minister as "a master of misdirection in his handling of the media". The tactic is now being deployed by the entire Government. In case the Taoiseach has forgotten, in June last year, the Ministers for Finance and Public Expenditure and Reform held a press conference during which they giddily outlined how they had just achieved a breakthrough on financing banks. The agreement of the European Council potentially to recapitalise banks directly with EU funding, something Ireland had neither put on the agenda nor lobbied for, was they claimed "a great victory for Ireland worth potentially up to €60 billion".

**The Taoiseach:** He told a very good story about the turkeys in-----

**Deputy Micheál Martin:** The Minister for Finance when asked what he was looking for said: "It's clear you've never been to the fair of Glin or sold a calf. Sure if I had told them the minimum, that's what they would give me". Last week, it was revealed that in spite of his experience selling calves and visiting the fair of Glin, he had got exactly nothing.

**The Taoiseach:** As the Deputy will be aware, one wants to be a good tangler when one goes there.

**Deputy Micheál Martin:** Given that the Government has given up, the minimum it owes the people is a statement on what it looked for and why it has accepted receiving nothing at all.

We also need to hear why the Government appears not even to be asking for full equality for Ireland regarding its debts. We have received the same interest rates as other countries but the ECB is retaining its profits on holdings of Irish bonds. In the case of Greece, it returns these profits. I am not clear whether the Taoiseach ever pressed the ECB about this.

**The Taoiseach:** Does the Deputy want us to go into a second programme?

**Deputy Micheál Martin:** I am talking about the fact that the ECB is retaining its profits on the holdings of Irish bonds. In the case of Greece, it returns these profits.

**The Taoiseach:** The Deputy should look at the conditions imposed on Greece.

**Deputy Micheál Martin:** It has always been the case from the outset that what works for one should work for the others just as it did with interest rate reductions. We got these reductions because other countries got there first and we took them.

The ECB often rightly points out that its credit has maintained the Irish and European markets. This is the duty of a central bank and not something for which anyone should be asked to express gratitude. Equally, the ECB has lost nothing whatsoever from this support, as it has given Ireland nothing. It has lent money to Irish institutions, which has been and will be returned. The ECB holding of Irish bonds stemmed directly from a failed policy implemented before the ESM and other measures were agreed. After costs, the profits on these holdings have been estimated at €500 million. The bank returns its profits on Greek bonds to Greece; it should return its profits on Irish bonds to Ireland. No Irish Minister, let alone the Taoiseach, has put this on the agenda. It represents almost the full amount of health cutbacks. The Government parties are so concerned about these that they withheld the health service plan until the week before Christmas. If the Taoiseach and his Government have formally given up seeking a reduction in Ireland's bank-related debts and if they are not seeking a return to Ireland of ECB profits on Irish bonds, they should be honest enough to admit that and to stop the misdirection.

Overall the model of banking union which will be agreed conforms to the idea of a common control framework without any shared responsibility. This is not what Europe needs. On Friday morning, the president of the European Investment Bank, EIB, will attend the Council for a discussion on measures to promote growth. The EIB has not even scratched the surface of what it could do. The main reason for this has been the decision of leaders to require national co-financing and other restrictions. The Government has again cut capital spending in next year's budget more than is necessary and this is part of the reason for the ESRI stating that the budget will act as a net drag on the economy next year. The time has come for the Government

to take a more assertive and ambitious approach to leveraging EIB financing.

With regard to the scheduled discussions on defence policy, nothing has been produced which supports the case for a new initiative in this area. The current structures have not been given time to work and they cannot be said to have failed. As has been seen in a number of recent cases, even NATO members retain the right to disagree and go their own way on many issues. Earlier this year, the Minister for Defence signalled that he would try to water down Ireland's commitment to the triple lock, which is at the core of our neutrality. He presented the idea that it was contradictory and that we were giving unsavoury countries a veto over our actions. This argument has been behind the efforts of a wing of Fine Gael to erode neutrality over the years.

**The Taoiseach:** Come on.

**Deputy Micheál Martin:** My party and I completely reject this. The United Nations is not working as it should but we must not abandon it as an essential part of the international system. Ireland has, and always will have, a limited defence capability. Focusing this on humanitarian actions is not only the right thing to do, it has full democratic legitimacy. There is no pressing need for a changed defence capability for the EU and our policy at this week's summit should reflect the will of the people and not the preferences of the Fine Gael Party.

The situation in Ukraine is both deeply troubling and inspiring. The actions of the Yanukovich government have been an outrage. One does have to look on Yulia Tymoshenko as a hero to understand that her continued imprisonment is a disgrace. The repeated beating of peaceful protestors, censorship of the media and undermining of parliament are not the actions of a democratic government. The actions of the Russian Government have not been those of a government that believes in respect and co-operation between nations. The fact that it states its belief in an exclusive zone of interest covering other countries is the rhetoric of an ideology that should have long since been buried. In the face of this, hundreds of thousands of people have taken to the streets to march and to sing or shout their belief in the future for democracy and progress in their country. They have carried the blue flag of the European Union alongside their own flags. In the context of our ongoing crisis, this should remind us that the EU remains an inspiration and the best hope for all who want a Europe of peace, democracy and development. I warmly welcome the actions of Catherine Ashton in going to Kiev and refusing to back down at the Union's core demands. If we are to give up our basic requirement that every member and every associate member must abide by democratic norms, the EU will lose its entire reason for existing. We cannot and must not give in to the demands of Ukraine and Russia. We must continue to assert European values and stand with the Ukrainian people. I hope the Taoiseach will make a strong public statement about Ireland's stance on this issue.

The British Prime Minister has launched the latest element of his campaign to build domestic popularity by scapegoating the European Union. He appears to be proposing that Britain should adopt a pick and choose approach to European law. His coalition partner, the Liberal Democrats, has spoken out against this. We should do likewise. The European Union must be a rule-based community, where members respect the law until they succeed in getting it changed.

**Deputy Gerry Adams:** I wish the Acting Chairman, Deputy Feighan, a happy Christmas and ask him to extend festive greetings from Sinn Féin to the Ceann Comhairle and all the team who run this Dáil. Nollaig shona don Taoiseach agus a chlann, don Teachta Martin agus na Teachtaí eile agus a dteaglaigh. Athbhliain faoi mhaise díobh go léir.

The Taoiseach started his statement by trumpeting the success of our exiting the international bailout. My party has long advocated that he should say slán abhaile to the troika and we welcome that he has eventually come round to that position. However, the question arises of whether he really said slán to the troika. His remarks on strengthening EU economic policy co-ordination make it clear this State will remain under surveillance for several decades and even then the European Commission will be able to prolong the period of supervision. Indeed, the European Council can impose whatever measures it sees fit on the State. The troika mindset of austerity remains and its policies are being faithfully implemented by this Government. Fine Gael and the Labour Party were happy to blame the troika for the imposition of harsh cutbacks and new taxes which in reality were their own policies.

Despite the Government's best intentions, I do not think it has stood up for the interests of the vast majority of citizens. Choinnigh sibh an ciorcal órga sábhailte. Tá siad ann fós - sin an fhírinne. D'fhág sibh daoine eile gan phingin rua. The Government failed miserably in its attempt to have our banks recapitalised, despite the eurozone commitment of June 2012. The fiscal compact treaty and other arrangements, such as the two-pack and the six-pack arrangements, continue the erosion of our economic sovereignty. In treaty after treaty, Fianna Fáil, Fine Gael and the Labour Party have supported the dilution of Irish economic sovereignty. The European Union has more control over our political and economic future than ever before. We should not pretend there is any intention at EU level or within this Government to end austerity. Exiting the bailout will change little for middle and low income families. The legacy throughout the European Union is mass unemployment, and youth unemployment in particular, immigration, increased poverty and devastation of community and public services.

The European Parliament has established an inquiry into troika programmes in European member states and I understand a delegation will visit Ireland in January. I wonder what evidence the Government will bring before this inquiry. Will it tell the inquiry about the tens of thousands of young people who are scattered across the globe? Will it describe the impact of austerity on the most vulnerable of our citizens, including the young, the sick, the elderly, those with disabilities, carers and mortgage holders who are paying the price for its policies? Will it outline how our public services are being damaged on a daily basis or how food and fuel poverty in this developed State is increasing on a daily basis?

The European Council meeting will also discuss the Common Security and Defence Policy and, for the first time in approximately five years, it will deal extensively with military issues. The Taoiseach may be aware of the report by Catherine Ashton, the High Representative for Foreign Affairs and Security Policy, on preparing the December 2013 European Council on security and defence. The report makes an argument for increased militarisation. I note the Taoiseach did not state the Government's opposition to the report. We have a world that is blighted by poverty, conflict, disease and hunger. We clearly need to increase our support for the developing world rather than create further militarisation or develop more effective weapons of mass destruction. The report discusses ways of contributing to international security but the best way to prevent war and conflict is by building peace through political negotiation and reconciliation within and between states. A progressive European Union should champion peace building and development aid instead of military adventurism.

The ongoing conflict in the Middle East and, in particular, the imposition of apartheid on the people of Palestine is unacceptable. The failure to intervene to uphold the rights of citizens in that region is an indictment of the international community. The conflict in Syria has also created a major crisis for refugees in particular. Will the Council discuss ways for member states

to open their borders to take some of the men, women and children who have been left homeless and scared for their lives? One of the legacies of Nelson Mandela, who we laid to rest at the weekend, is the promotion of discussion, negotiation, compromise, reconciliation and peace building. The EU should learn from Madiba's experience that increased militarisation by the powerful will not help achieve peace or security but will have the opposite effect.

Catherine Ashton's report also states that work is underway to increase the usability of EU battle groups and notes that cost sharing or common funding must be addressed to foster member state involvement and to find consensus on battle groups. We do not hear the same sort of language in regard to dealing with hunger or aiding those who have been made homeless. These battle groups will create a standing European army that is ready for deployment anywhere in the world and will further weaken Irish neutrality and sovereignty. The report essentially sets out a coherent European imperial strategy and how increased militarisation and co-ordination of EU forces will help to achieve that aim. It is claimed, perhaps with justification, that one of the main reasons for establishing the EU was to build peace. Surely the militarisation of the European Union runs counter to that principle.

*2 o'clock*

Time after time, people in this State and across this island have embraced that principle of active positive neutrality as a foreign policy matter. Will the Taoiseach urge and argue that the European Union should be a force for peace and reconciliation around the world, especially in the Middle East, and will he strongly make the case that the European Union should promote economic and social development rather than increasing the military budgets of its member states?

**Deputy Seán Crowe:** As my colleague, An Teachta Adams, indicated, this European Council meeting will to a large extent focus on the EU's Common Security and Defence Policy, CSDP. The European Council will focus on reports aimed at laying out how the European Union can extend its influence through increased militarisation, although I suppose it will be couched in softer and more diplomatic language. It is clear that supporters of this increased militarisation fear that the financial crisis will have an impact on the European defence industry and, due to the financial constraints, no EU member state, except perhaps Germany, can launch major new militarisation programmes alone. While children and families across Europe are going hungry, EU member states are spending €194 billion on weapons. I want to see a reduction in this spending and I ask whether the Taoiseach shares that view. Defenders of the arms industry will say that it employs 800,000 people in the EU but, according to independent research, a euro invested in education or public transport creates twice as many jobs as one invested in the arms industry. The research also suggests that state investment in military spending, as well as being wrong, is one of the least effective ways of creating jobs.

There have been some military spending cuts since the financial crisis hit the European Union, but the reductions have been focused on personnel cuts, such as reductions in troop numbers, recruitment freezes, lower pay and decreased pension contributions. Four EU member states are still among the top 11 countries globally for military spending.

This State stands out due to its significantly low level of military expenditure, approximately 0.6% of GDP. It is a record we should be proud of and continue to build on. Ireland's level of spending is relatively low because of its historical refusal to become a full member of NATO. The big worry, of course, is that if the Government continues to undermine our neutrality and

eventually erases it altogether, our military spending will increase significantly in order to bring the Defence Forces up to NATO standards.

It is time to stop putting defence lobbyists' needs above those of citizens. This European Council meeting should be a summit for peace, not for arms lobbyists. The Taoiseach stated in his speech, "We will be seeking to maintain a strong focus on enhancing the effectiveness of CSDP tomorrow," but what exactly will he be looking for? Is it more intervention in conflicts? Perhaps the Minister of State, Deputy Donohoe, will focus on that in his reply.

Hard-pressed citizens right across the European Union are hoping against hope for real job creation programmes and more health care projects and social protection schemes, yet the worry many have is that the EU leaders will meet to listen to and address complaints about the lack of military spending. I wish I had the eloquence or ability to convince the Taoiseach and others to oppose this further militarisation of the European Union in the form of calls for increased military spending and moves to create what is effectively an EU army.

Will the issue of tax evasion by EU-based multinational corporations be discussed at this Council meeting? A report released on Monday last by the Brussels-based development NGO European Network on Debt and Development, Eurodad, states that developing countries lose between €660 billion and €870 billion each year mainly in the form of tax evasion by these corporations. This is a significant issue which needs to be challenged urgently. EU citizens are donating money to combat poverty in developing countries, through Government aid programmes and private donations, yet EU-based multinationals are turning large profits in the same countries without paying taxes. It does not make sense. This tax evasion undermines the socio-economic development potential and progress of developing countries. For example, developing countries face funding shortfalls of €112 billion annually in terms of meeting the United Nations' 2015 development goals, and plugging this tax evasion could go a long way towards helping these countries to fix this. Until the issue is tackled by EU leaders, Europe will continue to give to developing countries with one hand while taking with the other. Will the Taoiseach raise these matters at the Council meeting?

The European Union is continuing to press ahead with a fishing partnership agreement with Morocco. Sadly, the European Parliament voted in favour of this agreement last week; however, it faced strong opposition, including from my party colleague, Ms Martina Anderson MEP, and the GUE-NGL group in the Parliament. This new fisheries protocol with Morocco will reward Morocco for its aggression and its violation of the guaranteed human rights of the Saharawi people - violations that have been documented by credible and independent international human rights organisations. The partnership also gives a form of legitimisation to Morocco's occupation of Western Sahara, a forceful annexation that the EU and its member states have never approved or legally recognised. As an occupying power, Morocco has no right whatever to exploit the natural resources of the occupied territories of Western Sahara or to enter into agreements with third parties concerning those resources. It also undermines attempts by the EU and other regional actors to find a peaceful and lasting solution to the conflict in that area.

I am running out of time, but I want to refer to Ukraine. We all accept that there are difficulties there. On Monday, EU foreign Ministers and Russia's foreign Minister, Mr. Sergei Lavrov, failed to find common ground on the issue. Yesterday, Ukraine's president opted for a strong no-strings-attached Russian bailout instead of the EU alternative. Russia has the power to literally switch off heat and gas in the region as it faces into winter. I do not know whether the EU negotiators had factored this in. Clearly, there is a geopolitical stand-off in the region, with

the Ukrainian people caught right in the middle. We need to step back and let common sense prevail. The countries in the EU's partnership have the potential to become a bridge between the EU and Russia. It is important that the European Union does not put these countries in an impossible position because of the growing tensions. I would be interested in hearing from the Minister of State the position Ireland will take at the Council meeting.

**Acting Chairman (Deputy Frank Feighan):** I call on Deputy Boyd Barrett, who I understand is sharing time with Deputy Wallace.

**Deputy Richard Boyd Barrett:** Like my colleagues, in all sincerity, I wish the Taoiseach and all other Deputies the best for Christmas and thank the staff for all their hard work. In doing so, I am acutely aware, as I am sure the Taoiseach is, that there are hundreds of thousands in this country who will not really be celebrating Christmas and for whom it will be a tough time, a trial, something to get through rather than enjoy. That is our responsibility, the Taoiseach's responsibility and the responsibility of European leaders.

That brings me to what I see as something of a merry-go-round of European Council meetings that have gone on for the past two and a half years. Almost invariably, such meetings are accompanied by announcements of breakthroughs, triumphs and, famously, in June of last year, game-changers, but despite all the triumphalism, the critical issue of the significant odious debt mountain and the accompanying costs of paying off that debt, which was put on the backs of the Irish people, remains unresolved. As the Taoiseach will be aware, that cost is considerable. Our citizens, many of whom will suffer this Christmas, carry 40% of the cost of the European bank bailout, or €9,000 per citizen. That is a tough burden for anybody to carry. It is a gross injustice because we are not the ones primarily responsible for the crisis. We can argue about burden sharing and responsibility sharing but the vast majority of those citizens who will suffer this Christmas are not to blame for what happened, yet they are carrying the can. It has left us in a terrifying situation as an economy, with 120% debt, but if one takes a more accurate measure of our economy the percentage is 150% of GNP. Against that background, the Government has refused to demand, as we would like, or even to ask for a write-down of that debt, and now the promise that we got last June that there would be retrospective recapitalisation of the banks, which is not a write-down but the nearest thing to one that Europe seems to be talking about, appears to be disappearing into the fog of abandoned promises. I ask the Taoiseach how that can be allowed to happen. How can he let it happen, given the gross injustice that loading this debt onto the backs of citizens involves? It is irrefutable that this is an injustice. There is no way they can justify that level of disproportionate unloading of the cost of the European crisis onto the backs of our citizens.

**Deputy Peter Mathews:** Hear, hear.

**Deputy Richard Boyd Barrett:** We should demand more. The Taoiseach might not want to go as far as I or others would go, but to let this drift on as another abandoned promise is not acceptable. That abandoned promise is now being replaced with the strategy for growth, as Deputy Collins pointed out.

Let me acquaint the Taoiseach with a conundrum that he must understand.

**The Taoiseach:** That is not on the agenda.

**Deputy Richard Boyd Barrett:** No, but this is what is replacing the necessary debt write-down.

**The Taoiseach:** No.

**Deputy Richard Boyd Barrett:** There are two lines in it and then we will move on.

**The Taoiseach:** Those are two lines referring to a time to come.

**Deputy Richard Boyd Barrett:** I ask that the Taoiseach let me finish; he will have a chance to respond. There are two lines in the document about that, but the approach is to let us forget about that and talk about growth.

**The Taoiseach:** We are not forgetting about it.

**Deputy Richard Boyd Barrett:** We all want growth, but there is a conundrum: in order to make that debt sustainable we must have growth, but in order to have growth we have to get a break on the debt.

**Deputy Peter Mathews:** Hear, hear.

**Deputy Richard Boyd Barrett:** One cannot have growth without a break on the debt.

**The Taoiseach:** The Deputy should follow that through and tell me what he would do.

**Deputy Richard Boyd Barrett:** To follow that through, we should not pay out €9.1 billion in interest next year.

**The Taoiseach:** What would the Deputy want us to do?

**Deputy Richard Boyd Barrett:** It will kill us.

**The Taoiseach:** What is the Deputy's recommendation?

**Deputy Richard Boyd Barrett:** It will make the level of growth that the Taoiseach is talking about impossible. He will have his chance to respond.

**The Taoiseach:** What is the Deputy's recommendation?

**Deputy Peter Mathews:** Fifty-three billion euro of creditor compression.

**Deputy Richard Boyd Barrett:** In the Taoiseach's growth forecast in this strategy he has a baseline assumption of 2% growth and an optimistic scenario of 2.3%, but the ESRI has three scenarios. It has a stagnation scenario in which the debt issue is not resolved and the growth the Taoiseach hopes for in Europe does not materialise. Why is that stagnation scenario not set out, when IFAC and the troika have said that the downside risks are the greater risks? They have said on the record in the Department of Finance that those are the greater risks.

**The Taoiseach:** So?

**Deputy Richard Boyd Barrett:** Any objective analysis of the economic scenarios facing us would at least have indicated that this was a possibility. Instead, the Taoiseach has given us an aspiration which may materialise.

**The Taoiseach:** The Deputy should tell me how he will get that write-down.

**Acting Chairman (Deputy Frank Feighan):** The Deputy should be allowed to continue

without interruption.

**Deputy Richard Boyd Barrett:** A suggestion I gave to the Taoiseach yesterday is that he should go to Europe tomorrow and say that instead of giving them €9 billion next year, we will hold €3 billion and use it to fund a major programme of social house building by the State-----

**Deputy Paschal Donohoe:** Who will lend us that money?

**Deputy Richard Boyd Barrett:** Will the Acting Chairman ask the Members opposite to stop interrupting me?

**Acting Chairman (Deputy Frank Feighan):** The Deputy should be allowed to speak without interruption.

**Deputy Paschal Donohoe:** Who will lend us the money?

**Deputy Peter Mathews:** They will have to write it off.

**Deputy Richard Boyd Barrett:** The building of social housing would house the people who have no roofs over their heads and will be homeless over Christmas. It is not funny.

**Deputy Paschal Donohoe:** I know it is not. Those people are in my constituency too.

**Deputy Richard Boyd Barrett:** It would generate revenue for the State. It would save in terms of social welfare expenditure.

**The Taoiseach:** Go on, Deputy.

**Deputy Richard Boyd Barrett:** It would put people back to work. It would genuinely stimulate the economy and it would pay for itself. The Taoiseach knows the maths. We are paying out half a billion a year, €600 million if we include leasing arrangements to private landlords. That money will come back to the State and we would save money by putting construction workers back to work, allowing them to pay tax. We would save huge amounts in social welfare expenditure. Why can the Taoiseach not do that? Why can he not tell our European partners to do that?

**The Taoiseach:** Stage two.

**Deputy Richard Boyd Barrett:** I cannot believe the Taoiseach is heckling me so much.

**The Taoiseach:** The Deputy should come back to me in six months and then we will see what he says.

**Deputy Richard Boyd Barrett:** That is a suggestion for the Taoiseach. I suggest he does that because his policy is to give tax incentives to property speculators again. I cannot believe it.

**The Taoiseach:** That is a mad suggestion.

**Deputy Richard Boyd Barrett:** It is causing a rent bubble in Dublin that is directly contributing to homelessness and is giving monopoly control over property in Dublin to big corporate speculators.

**The Taoiseach:** That is fantasy.

**Deputy Richard Boyd Barrett:** Frankly, it beggars belief.

Lastly, I have a genuine request. Four hundred workers at Lufthansa are facing the loss of their jobs. Lufthansa is a German company and all the workers want is a fair redundancy package and for a €12 million deficit in their pension scheme to be filled by the company. It made €261 million in profits last year and it has massive accumulated profits. Will the Taoiseach ask Angela Merkel at the margins of the European Council meeting to put some pressure on Lufthansa to do a fair deal in order that those workers who face the loss of their jobs at least get a fair redundancy deal and have the deficit in their pension fund filled by Lufthansa, which is a very profitable company?

**The Taoiseach:** When did the Deputy become a supporter of Lufthansa?

**Acting Chairman (Deputy Frank Feighan):** Thank you, Deputy Boyd Barrett. I call Deputy Wallace to make his statement.

**Deputy Mick Wallace:** This week, EU and US negotiators are meeting in Washington DC to hold a third round of talks on the transatlantic trade and investment partnership, TTIP. In an open letter, nearly 200 environmental, consumer and labour groups have urged European Trade Commissioner, Karel De Gucht, and the US Ambassador, Michael Froman, not to include an investor-state dispute settlement, ISDS, mechanism in the deal. They argue that not only does the ISDS mechanism have very little to do with trade and tariffs, it also undermines democratic decision-making while giving corporations the power to undermine domestic and international policies designed to protect the public interest. Their open letter states:

ISDS grants foreign corporations the right to go before private trade tribunals and directly challenge government policies and actions that corporations allege reduce the value of their investments. Even if a new policy applies equally to domestic and foreign investors, ISDS allows foreign corporations to demand compensation for the absence of a ‘predictable regulatory environment.’ [...]

ISDS forces governments to use taxpayer funds to compensate corporations for public health, environmental [energy, financial regulation], labor [land use, transportation] and other public interest policies and government actions.

I can tell the Minister of State that they are not traditional trade issues.

Corporate Europe Observatory, a research group, published a leaked version of the European Commission’s communication strategy regarding the TTIP. On Friday, 22 November, the European Commission held talks with EU member states to discuss the PR strategy for the trade deal in order to “reduce fears and avoid a mushrooming of doubts”, and the Commission proposed to “further localise our communication effort at Member State level in a radically different way to what has been done for past trade initiatives”. Fortunately, the Corporate Europe Observatory leaked the report discussed by EU member states. In it we see a direct attempt by the European Commission to mislead the public with the assistance of the governments of member states. The public relations programme is outlined in an enlightening paragraph as follows:

The aim is to define, at this early stage in the negotiations, the terms of the debate by communicating positively about what the TTIP is about (i.e. economic gains and global leadership on trade issues), rather than [...] about negotiating data privacy [and] lowering

EU regulatory standards”. For the approach to be successful it needs to be both proactive and quickly reactive, involving monitoring of public debate, producing targeted communications material and deploying that material through all channels including online and social media.

It is not surprising that the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, parroted the EU line and will not engage with the obvious problems and dangers posed to Irish sovereignty and the public interest by this treaty, particularly the threat posed by ISDS. It is also interesting that the Irish media have not discussed the trade deal in a critical manner at all. A search for the term “TTIP” in the LexisNexis news database, limited to Irish publications and with the sole condition that “TTIP” had to be included in the first three paragraphs of the article - in other words, that it was the subject of the piece - resulted in one article. Mr. Stephen Carroll of *The Irish Times* had written it, and it read as if tailor-made for the European Commission’s propaganda guidelines, the only source quoted being the same Karel De Gucht, no less than five times.

While the Government and the Irish media show no signs of being interested in clarifying some of the issues surrounding this secret trade deal, it is clear what the driving force behind it is, the implications it will have for the Irish, and what this says about the ideology of the Government. The TTIP is the political project of a transatlantic corporate elite which, on the unfounded promise of increased trade and job creation, will attempt to reverse social and environmental regulatory protections and redirect legal rights from citizens to corporations.

Speaking of a complicit media, a lot of ideological work is required for the powers-that-be to convince the population that austerity is good for them or to reduce the intensity of protest against it. All major news outlets in Ireland are right of centre. While that is bad for those who want to know what is really going on, it is good for those who want a favourable spin on their policies. Neither Fine Gael nor the Labour Party was in favour of excessive austerity before the election. They were wiser then and realised that austerity attacks ordinary people by cutting Government spending on social services, health care and welfare. It seeks to make labour more flexible by dismantling and downgrading work conditions and protections to give more power to employers over employees. It raises regressive taxes such as VAT and encourages privatisation of State-owned enterprises, which are often sold to investors at bargain prices.

An interesting study by UCD lecturer Dr. Julien Mercille details how the Irish media have promoted austerity. The study examined more than 400 editorials and opinion pieces in Ireland’s three leading newspapers, *The Irish Times*, the *Irish Independent* and the *Sunday Independent*, and found that only 12% of articles opposed fiscal consolidation, 55% supported it, and 34% did not voice any clear opinion. Worse, these numbers arguably overestimate the extent of the small opposition to austerity because many of the articles opposing fiscal consolidation simply rejected specific cuts without proposing any alternative policy. It is astonishing that only 3% of all articles supported an increase in Government spending, which could form the basis of a Keynesian stimulus programme. The media debate thus revolves around how best to implement austerity without questioning it. Totalitarian regimes would surely be impressed by the effectiveness of this information control.

The media have not been shy about announcing their role in convincing the public that austerity is good for them. At the outset of the crisis, in November 2008, an editorial in the country’s newspaper of record, *The Irish Times*, called for a campaign to educate the population about the need for austerity and civic discipline. The problem was that Irish people did not

appreciate the possible extent of the economic downturn because only 10% of them thought the budget should be tougher while two thirds thought it should be less tough, according to a national poll. The editors thus concluded that the Government would have a major job to do in educating public opinion about unpalatable economic realities and the need for civic discipline.

There is little doubt that austerity has led to the socialisation of private losses of elite institutions. This is still taking place. These developments, including the proposed TTIP agreement, are part of a wider moulding of national and legal structures to facilitate corporate business at the expense of the rights of citizens. In effect, the Government has colluded in the international race to the bottom in social protection while simultaneously transforming Irish law into a commodity to be put up for sale on the international market. The process is best exemplified in the annual report of the World Bank, *Doing Business - Measuring Business Regulations*, which grades 178 countries. We recently lauded ourselves when *Forbes* put us at the top of the list, but people should remember that in order to win this dubious accolade, Ireland must simultaneously rank among the worst countries in the world for social protection and financial regulations. This was left out of the discussion.

**Deputy Richard Boyd Barrett:** I will not heckle while the Minister of State is speaking.

**Minister of State at the Department of the Taoiseach (Deputy Paschal Donohoe):** I thank Deputy Boyd Barrett for that. I welcome his contribution at any time. I wish everyone a happy Christmas and a well-deserved break. I take on board the point made by Deputy Boyd Barrett that many people are not in a position to enjoy Christmas, and we keep them in our minds in the work we do here.

I will address some issues raised by my colleagues, many of which focused on the role of the CSDP and the discussion that will take place at the upcoming Council meeting. It is understandable that Deputies raise questions and views on this point because it is the first time in many years that the CSDP has been a discussion topic at a European Council meeting. It is understandable that it is the subject of questions in the Chamber.

The discussion tomorrow and Friday is the culmination of a process that began last December. The European Council of December 2012 adopted conclusions calling on the High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, and the European Commission to develop further proposals and actions to strengthen the CSDP and improve the availability of the required civilian and military capabilities through a strengthened European defence industry. The preparatory process has been ongoing since that time. During Ireland's Presidency of the Council of the European Union, for example, we hosted a series of seminars that provided member states, the European External Action Service, and international organisations such as the UN and the African Union with an opportunity to exchange views on issues related to crisis management and peacekeeping.

Earlier this year, as key inputs to the process, the High Representative circulated a report on the EU's Common Security and Defence Policy, CSDP, while the European Commission published a communication entitled "Towards a more competitive and efficient defence and security sector". Last month, EU foreign and defence Ministers held a joint meeting of the Foreign Affairs Council, at which they discussed and subsequently agreed a comprehensive set of conclusions on the CSDP. All of these will feed into the conclusions to be discussed in Brussels tomorrow.

CSDP, as set out in the Lisbon treaty, is an integral part of the CFSP. It is intended to equip the Union with operational capacity for missions outside the EU aimed at strengthening international peace and security in accordance with the principles of the United Nations charter. I want to emphasise two points to address the concerns raised by Deputies. All development of policy in this area takes place within the architecture set out by the Lisbon treaty and voted on by the Irish people. That explicitly recognises the foreign and security policy principles of our country, particularly our affirmed neutrality. That is the framework within which the discussions take place.

The second point I want to emphasise is that of the types of operation in which Irish troops and civilians have been involved since the implementation of the Lisbon treaty and since policy in the area has developed. The operations were in Chad, Somalia and Gaza, all of which involved attempting to that ensure vulnerable people had access to the principles of the United Nations charter, including the protection of their human rights and protection from difficulty. Across that period, in the policy as formulated, we have seen members of our armed forces and civilians participate in operations that explicitly recognise the neutral stance and policy of our country and are also designed to deliver to people in need of affirmation of the principles of the United Nations and the values that underpin it. It has been in existence for ten years and, in that time, the EU has launched 30 missions, two thirds of which have been civilian and one third military. The EU is currently conducting a total of 17 missions, 13 of which are civilian and four are military. Ireland, as the Taoiseach mentioned, is currently contributing to six civilian and three military missions.

After ten years in existence it is generally accepted among member states that the CSDP needs to be reinvigorated. The European Council is likely to suggest ways in which this can be achieved. In order to increase the effectiveness of and impact of the CSDP, it will important for the EU to adopt a comprehensive approach to crises as they arise. The EU must work closely with its partners, such as the United Nations, the Organisation for Security and Co-Operation in Europe, NATO and the African Union in this regard. It needs to be able to plan and deploy the right civilian and military assets rapidly and effectively. We continue to place great emphasis on partnership between the EU and the UN in the area of crisis management. In order for CSDP to remain as an effective and credible tool, the EU will also need to continue to improve and develop the capabilities to be used in future CSDP missions. In that regard, the European Council is likely to highlight ways in which this can be done. The European Defence Agency, EDA, plays an important role in this regard and the European Council is likely to prioritise certain co-operative projects between the EDA and member states, such as air-to-air refuelling capacity, satellite communication and cyber- and remotely piloted aircraft systems.

The final area the European Council is expected to discuss is the strengthening of Europe's defence industry. In the context of the Commission communication which I referred to earlier-----

**Acting Chairman (Deputy Frank Feighan):** The Minister of State is running out of time.

**Deputy Paschal Donohoe:** I will wrap up in a moment. It is likely that the European Council will request the European Commission and the European Defence Agency to bring work forward in areas such as research, standards and certification, small and medium enterprises and security of supply.

I will briefly refer to other matters raised by a number of colleagues, particularly Deputy

18 December 2013

Crowe, who mentioned enlargement, Syria, etc. I acknowledge the progress made by High Representative Catherine Ashton with regard to efforts to normalise relations between Serbia and Kosovo over the past six months. I look forward to seeing continuing progress on the Serbian accession negotiations and also the outcome of the negotiations between the EU and Kosovo on a stabilisation and association agreement. On another positive note, the European Council is expected to confirm that we can look forward to a decision on the granting of candidate status to Albania in June 2014, and I will visit that country in January.

The conflict in Syria was mentioned by colleagues. Ireland has been doing all it can to help, providing over €14 million in assistance since the crisis began. We are currently examining future support for Syria and preparing for the second pledging conference due to take place in Kuwait on 15 January. This pledge will represent an increase on Ireland's pledge made at the Kuwait conference last January. The Government is also supporting international efforts to find a sustainable political solution to the crisis. We have called for safe and unimpeded humanitarian access and urged all parties to the conflict to fully respect international humanitarian law and refrain from targeting civilians.

I conclude by thanking everybody for their contributions. Perhaps some of the more detailed points that I could not refer to because of time can be dealt with at the next meeting of the European affairs committee. I wish everybody a good Christmas.

## **Topical Issue Debate**

### **Cabotage Regulations**

**Deputy Timmy Dooley:** I welcome the opportunity to contribute on this issue, which, as the Minister is well aware, is of great concern to the road haulage sector. It certainly appears that Irish authorities have barely policed the cabotage legislation, which has resulted in the awarding of haulage contracts worth millions of euro to foreign haulage firms that pay no taxes in Ireland and employ no people here. The Road Safety Authority is responsible for the enforcement of legislation, along with the Garda, and its figures reveal that from 2012 to July 2013 only 78 vehicles were checked in Ireland and only a single breach of the regulations was uncovered. That is too little investigation. In comparison, the UK Department of Transport made over 43,000 checks relating to cabotage legislation, with 310 offences detected.

The legislation allows every haulier to perform up to three deliveries or cabotage operations within a week, starting the day after the unloading of international cargo in the country of destination. This was introduced by the EU to avoid an influx of drivers on lower wages flooding the EU markets. The Department of Transport, Tourism and Sport previously indicated that it was monitoring the level of investigations carried out by the relevant authorities. The head of the Irish Road Haulage Association, Mr. Eoin Galvin, has previously had meetings with the Minister, who promised to clamp down on breaches of the law. I accept that to some extent this falls outside the Minister's remit, as it is a matter for the Garda and the Department of Justice and Equality; nevertheless, he will have to use his influence to protect the road haulage sector because of what has been happening in the summer and is continuing even now.

As the Minister knows, the issue came to light over the summer after a number of foreign

hauliers were found to be operating out of Foynes Port, forcing the Irish Road Haulage Association to resort to a blockade when local hauliers had to lay off drivers after contracts were given to foreign firms. In my view, which is shared by many, these firms were acting illegally and flouting the cabotage laws as applied here. At least four haulage companies from Germany, Holland, Scotland and the North appear to be flouting European cabotage legislation, which bans foreign hauliers from doing more than three journeys in a country before they leave. The firms have been involved in the transport of parts for wind turbines being imported by Siemens through Foynes Port. The legislation signed into law by the Minister in January 2012 allows every haulier to perform up to three deliveries or cabotage operations within a week, starting the day after the unloading of international cargo. However, it is illegal for haulage vehicles to enter the State empty and then carry deliveries. I have had the opportunity to visit Foynes port and see what is going on down there, and it appears that trucks and specialised moving equipment are being brought in without any loads and then being used to take heavy, oversized equipment from the port to various destinations, particularly where wind turbines are being placed. It is clear that this is being done in breach of cabotage laws. What is most surprising is that most of these wide loads, because of their nature, get a Garda escort. These people appear to be breaking the law, but they are being escorted in their work by the police, who are acting from a road safety perspective.

Within the past month the Irish Road Haulage Association has alleged that UK-registered trucks have entered the State and carried out deliveries for the ESB to the Carrickmines site from Dublin Port, again with the escort of gardaí. I am not making any allegations against gardaí, who are carrying out a job in travelling with these loads to protect other vehicles on the road, ensure traffic is not delayed, etc. In essence, these companies are breaking a law of the State, which is regrettable, and the issue needs the involvement of this Minister and the Minister for Justice and Equality. The Garda should also review its actions in this regard.

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** I thank the Deputy for raising this issue. As he is aware, the area of cabotage is not straightforward and there can be confusion as to what is covered by the cabotage regulations. Furthermore, the continued existence of cabotage restriction with the European Union is to a large extent an anomaly in the context of the free movement of goods and services.

Cabotage is the national carriage of goods for hire or reward carried out by non-resident hauliers on a temporary basis in a host member state. Haulage cabotage operations are governed by Regulation (EC) 1072/2009. In accordance with this regulation, non-resident hauliers are permitted to conduct up to three cabotage operations within a seven-day period after the inbound international carriage of goods from another member state or a third country. Advance permission is not required for a nonresident haulier to carry out the cabotage operations in accordance with the regulation. However, there are conditions which must be met. The first is that the non-resident haulier must hold a community licence qualifying him or her to operate internationally; and the second is that the non-resident haulier must produce clear evidence of incoming international carriage and of each subsequent cabotage operation carried out in the host member state, to a maximum of three operations. The non-resident haulier is also subject to the laws, regulations and administrative provisions in force in the host member state with regard to the conditions governing the transport contract; the weights and dimensions of road vehicles; the requirements relating to the carriage of certain categories of goods, particularly dangerous goods, perishable foodstuffs and live animals; the driving time and rest periods; and the value added tax, VAT, on transport services.

As the Community continues towards a single European market, it is likely that restrictions such as cabotage will be removed. This liberalisation of transport services is supported by the Government. The current cabotage regime in operation across the European Union is largely a protectionist regime that serves to protect domestic operators. The strict operation of cabotage in the United Kingdom, for example, has had negative impacts on Irish hauliers seeking to operate in that market. However, cabotage restrictions are still in place and within that context, I view it as important that the current cabotage rules are enforced here until the market is fully liberalised, to protect our domestic or resident hauliers.

The enforcement of the EU cabotage rules ensures that our national road haulage market operates in a similar manner to the internal markets of other countries. It ensures that our road haulage industry is not placed at a competitive disadvantage, and it also ensures that non-resident hauliers operate in accordance with EU legislation.

The enforcement of cabotage regulations is the responsibility of the Road Safety Authority and An Garda Síochána. I am aware that the enforcement authorities and my Department work closely together and assist one another in ensuring the application and monitoring of cabotage regulations. I assure the Deputy that, at our quarterly road safety meetings with the Garda and the Road Safety Authority, enforcement of haulage laws in general is always on the agenda.

**Deputy Timmy Dooley:** While the Minister has set out his and the Department's position, it is worth noting that while the cabotage laws are in place, it is vital that we protect our haulage sector. As an island nation, we need to have indigenous road haulage operators in place. Operators in other countries, particularly in central Europe, can move trucks freely and, therefore, provide an adequate transportation service for the movement of goods. I am concerned that if our domestic operators end up going out of business because of this unfair competition, we may be left in a very negative position at a later stage. We depend so much on our haulage sector to export the goods that are so vital to our economy. Anything that could undermine the sector in the shorter term could only be damaging to future economic growth and activity.

The Minister will be aware that it is alleged by those who have a very clear view of what is going on that approximately 43% of foreign trucks entering the country engage in illegal haulage activity, as set out under the cabotage rules. We understand that there is really no enforcement of vehicle weights, dimensions and tachograph laws for the foreign operators who are plying their trade here. There is no doubt but that they have an unfair advantage over the domestic hauliers resulting in the displacement of the work in the trade.

I ask the Minister to utilise his position at Cabinet level to urge the Minister for Justice and Equality to make clear to the Garda Commissioner that while there are cabotage laws in place, they should be enforced to the full extent. The Minister is correct that domestic hauliers who travel to the United Kingdom are put under pressure and forced to recognise the laws there. We must level the playing pitch as best we can. I look forward to some action early in the new year by the Government in this regard.

**Deputy Leo Varadkar:** I have a few points. It is important to reiterate that the Government's position is that we should not have cabotage and that there should be a genuine single market. The restrictions should not exist provided each country in the European Union has the same safety and social standards. In the meantime, the law should be enforced.

I was interested to hear Deputy Dooley's statistics. I may have heard them before but I do

not recall hearing them. If he passes them on to me, I will certainly distribute them at the next meeting with the Road Safety Authority and the Garda Síochána and ask them for their views on them. Where enforcement is concerned, we often hear only one side of the story, however. People complain when enforcement does not happen but may not tell one when it does. The Deputy raised the issue of the ESB's Carrickmines site. I received an e-mail today in this regard from a foreign haulier whose name I will not give. He states he is from a company that tried last night to deliver a power transformer to the ESB's Carrickmines site and that the delivery was blocked at the port by the Road Safety Authority. The delivery could not go ahead as the inspector said the company was not following cabotage rules. The correspondent states he is informed that the Road Safety Authority will follow instructions given by the Department of Transport, Tourism and Sport and that his company is seeking that the Minister and Department intervene. It is stated that what occurred could result in the omission of a serious piece of the ESB infrastructure for the Dublin area and could result in issues with the electricity network in Dublin. The company states it is looking forward to a derogation in this case in the knowledge that there is no transport company in Ireland with the specialist equipment to move the transformer. This is the kind of stuff I get all the time. Foreign hauliers believe I will change the law just for them. I do not do so. In this case, the Garda refused to escort the haulier.

**Deputy Timmy Dooley:** I am very pleased that placing this on the Order Paper yesterday might have resulted in action. Perhaps we have had a result all round.

**Deputy Leo Varadkar:** I am not sure that is true but if it is, credit must be given where it is due. There is absolutely no way that we will again permit a set of circumstances in which gardaí end up escorting goods against the cabotage laws, whether they realise it or not.

**Deputy Timmy Dooley:** I thank the Minister. That was very helpful. The action of the Road Safety Authority last night was certainly helpful.

### **Health Services Provision**

**Deputy Joe McHugh:** I am raising this issue on behalf of some parents who have boys with Duchenne muscular dystrophy, a rare disease that affects approximately 100 boys in Ireland. Before I discuss the specific circumstances of the parents on whose behalf I am speaking, I wish to put on record the good work and good service delivery at the Central Remedial Clinic, CRC, in respect of various sectors. Some parents send their boys with Duchenne muscular dystrophy to the clinic. It is important to record that I am not speaking on their behalf but on behalf of parents of boys who do not attend there. Approximately a dozen parents bring their boys to Newcastle, the reason being that bisphosphonates are available there on prescription. In conjunction with steroids, this treatment is producing very positive results for the boys. According to one of the parents, the survival rate is staggering. Another parent has said to me that all parents are trying to do is keep their children on their feet for as long as possible.

With Duchenne muscular dystrophy, best practice changes nearly every six months. It is a new area. There is a clinical trial site in Newcastle but none here. This presents a difficulty for the dozen or so families who are sending their boys to the United Kingdom.

There is a new administration temporarily in charge of the CRC. We are all aware that the board has stepped down and that the chairman is no longer *in situ*. There is a new administrator. All I am asking on behalf of the dozen or so affected parents is that the new administrator meet

the parents and listen to them. They have experience of very good service delivery in Newcastle. They want to bring something to the table that might be of value and help in the delivery of services here. This is not about saying one service is better than the other; it is required of the Government to be big enough to say that if there are new ideas being applied in Newcastle, it is willing to learn from them. All I ask is that the dozen or so parents be listened to because they could bring value to the debate and be of benefit to the other parents in Ireland whose affected boys are just on steroids and who do not have the opportunity to take bisphosphonate.

For many years, I have been advocating the location of a clinical trial site in this country. I am aware of the current economic constraints, but we should still focus on the possibility of developing a clinical trial site in this country.

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** I thank the Deputy for raising this issue and his positive comments on the incredible service provided by the CRC. The clinic has been embroiled recently in the controversy over pay and top-up payments, which is unfortunate because 99% of those attending the CRC are extremely happy with the service being provided.

The Department of Health has been unable to obtain the material to answer the specific questions raised by the Deputy in the time given. However, it undertakes to follow up with the Health Service Executive and the CRC and write to the Deputy with the information as a matter of urgency.

The issue of standards of care is at the top of the Minister's and the HSE's agenda. The HSE has established a quality and clinical care directorate to help to improve patient care throughout the health system. Clinical governance will ensure patients can get the right treatment at the right time. Clinical audit programmes will measure and audit standards to ensure they are delivered across the health system, including through agencies such as the CRC.

I will deal with the Topical Issue raised by referring to work under way on rare diseases and the services provided at the CRC. Duchenne muscular dystrophy is a rare, chronic, debilitating and life threatening condition. Most rare diseases have a genetic origin and the life expectancy of persons with rare diseases such as Duchenne muscular dystrophy is significantly reduced. Scientific knowledge of rare diseases, including Duchenne muscular dystrophy, is limited.

Ireland is well advanced in developing a strategy for rare diseases. A national steering group is developing a policy framework for the prevention, detection and treatment of rare diseases. The principles are high quality care and equity and centred on the patient. An integral part of an effective policy framework will be the development of a dedicated HSE clinical programme for rare diseases. This programme will aim to improve and standardise patient care by bringing together clinical disciplines and enabling them to share innovative solutions to deliver greater benefits to HSE service users. It is envisaged that a national rare diseases clinical programme would, over time, assist in developing national treatment guidelines, standard operating procedures and care pathways for many rare disorders, including Duchenne muscular dystrophy, in collaboration with designated reference centres. It would also develop care pathways with European reference centres for those ultra rare disorders on which there may not be sufficient expertise in Ireland.

The CRC provides a comprehensive range of services for almost 4,000 children and 500 adults throughout the country with physical conditions ranging from the very rare to the more

familiar such as cerebral palsy, spina bifida and muscular dystrophy, including Duchenne. The CRC services assess, diagnose and treat children and adults with a wide range of physical conditions. In addition, the clinic offers a range of training, development and ongoing support options to adults with a physical disability. The CRC received funding of approximately €16 million from the HSE in 2013. It is also worth noting that it has been designated as a centre of excellence by the national accreditation committee for its high standard of delivery of training in adult services. It also recently received a HSE innovation award for its mobile gait laboratory services.

Dr. Brian Lynch, a consultant at the CRC, has provided additional information for the HSE. He has pointed out that children with Duchenne muscular dystrophy attend the CRC which has run a neuro-muscular clinic for over 25 years. At the CRC, children attend multidisciplinary clinics where they receive input from paediatricians, neurologists, orthopaedic specialists, physiotherapists, occupational therapist and dieticians. They also engage with clinical psychologists and social workers, where necessary. The treatment provided for these children at the CRC is in line with best international standards of care.

I will pass on the Deputy's specific request regarding the new director of the CRC, whoever that may be, meeting the families. Ireland is too small to develop the required research capacity in the area of rare diseases. We will have to continue to co-operate with others across Europe.

**Deputy Joe McHugh:** I thank the Minister of State for her reply and commitment to try to facilitate a meeting between the new director of the CRC and the dozen or more families concerned. Several aspects of her response are encouraging, particularly the reference to the development of care pathways, in co-operation with European reference centres, for those ultra rare disorders for which there is insufficient expertise in Ireland. The EU patient mobility directive is due to be transposed into Irish law next year and it will benefit the parents of children with Duchenne muscular dystrophy and many others. If the Acting Chairman needs a hip replacement, under the new directive, he will be able to travel to Italy, Germany or France to obtain one.

**Acting Chairman (Deputy Bernard J. Durkan):** That is most reassuring.

**Deputy Joe McHugh:** It will change the way services are delivered in Europe. The parents of the children to whom I refer will continue to travel to Newcastle, regardless of when the directive is transposed. They were a little sore when the E112 forms were withdrawn, but I hope changes will happen early next year in that regard. Sometimes policy makers and politicians sit around the table and make decisions in the absence of the most important people - service users. The parents to whom I referred who travelled to Newcastle had an overwhelmingly positive experience, although that is not to say some of the parents of the children attending the CRC have not had a positive experience, too. The service in Newcastle has given these parents hope.

I do not want to put a figure on life expectancy for those suffering from this debilitating disease because parents have been given hope their children can live longer than expected. The children will be able to stand for longer and will not have to use wheelchairs when they are eight or nine years old. They are living longer and able to play with their peers in the school yard. Their parents want the best for them and we can learn so much from both the parents and children. They have had a great experience and have been given hope. Sometimes we ignore the important things in life like listening to people. The parents of these children have something important to bring to the table. We must sit down and listen to them because we will learn

more from them than from the experts with PhDs and other letters after their names.

**Deputy Kathleen Lynch:** The Deputy will find no disagreement from me in that regard.

### **HSE Investigations**

**Deputy Denis Naughten:** The Minister for State will be aware that in recent weeks worrying facts have come to light regarding the sale of used orthodontic braces by a dentist employed by the HSE in Merlin Park, Galway. These braces which should have been incinerated were sold to private practices. The HSE became aware of this fact in 2009 and it was exposed in the *Connacht Tribune* recently. Four years later, however, there is still no explanation from the HSE as to why this practice was allowed to occur or the action it took on learning of this matter. Furthermore, it has not answered questions on the potential risks for those who had the second-hand braces used in the course of their treatment. More worryingly, further information has since come to light which raises serious concerns about potential exposure to infection. Many parents are rightly concerned and seeking information on whether the braces they worked hard or, in some cases, borrowed to pay for were second-hand.

*3 o'clock*

If so, what are the risk factors for their child?

As both the Minister and the HSE are aware, the information that has come into my possession in recent times raises very serious questions about a range of issues including the action taken by the HSE on being made aware of this practice being carried out by one individual dentist but, most important, it raises extremely serious questions regarding the exposure of patients to the risk of infection.

We must know whether the HSE took steps to address the risk on becoming aware of the practice in 2009 and whether contact has been made with any patient - either private or public - who was potentially exposed to such a risk, as a result of the individual's actions and the sale of second-hand braces. The HSE must also clarify whether the risk to patients continued even after it became aware of the actions of this individual in 2009. People are rightly horrified at the thought of the practice taking place. It beggars belief that the HSE in Merlin Park would not re-use crutches but the re-use of dental braces was going on for a number of years. What action has been taken against the dentist concerned?

The Minister must now establish an immediate, independent investigation into the issues surrounding the sale of second-hand braces by the HSE dentist. Such an investigation is needed to establish when allegations of the practice were first known; what action was taken and when; and also to identify any risks that may exist regarding infection; communicate with patients and-or their parents; investigate the private practice concerned; clarify what cleaning and sterilisation processes were employed before the braces were placed in another child's mouth; if there was an element of fraud involved in the re-use of the braces; and to make the results public as soon as is practicable.

Such an investigation is needed to establish whether the HSE's actions on learning of this practice were in line with its own policies on infection control and patient safety. We must know how long this practice had been going on and when it was first brought to the attention

of the authorities. We also need to know where the braces went and the steps taken to trace the children involved.

There are many professional health care staff working within the department in Galway whose reputation must be protected and who would, no doubt, like to see a fully independent investigation take place to expose the truth behind this disgusting practice carried out by one individual and the issues that have arisen as a consequence. The HSE has confirmed that it will fully investigate this matter. However, in light of the information that has come into my possession it is clear that this is not adequate and that a full and independent investigation must now take place.

**Deputy Kathleen Lynch:** On behalf of my colleague, the Minister of State, Deputy White, I thank the Deputy for raising the issue. The Minister of State, Deputy White, became aware through recent media reports that a dentist employed by the HSE at the orthodontic unit in Merlin Park hospital has admitted giving braces that had been removed from children at the unit to a private dental practitioner. I am very constrained in what I can say at present on the case. I understand that the HSE became aware of this matter in 2009. It was investigated at the time and the practice of removing braces from the unit ceased. My colleague, the Minister of State, Deputy White, has asked the HSE to advise him if there are any outstanding issues that may need to be addressed concerning the possible re-use of the braces. Deputy Naughten will appreciate that the HSE is not in a position to comment on any individual staff member working within the service.

Where the HSE becomes aware of any patient safety issues, they are dealt with promptly and effectively. In this case, the HSE has provided assurance that staff of the orthodontic unit concerned were trained at the time to ensure correct policies and procedures were followed and to prevent the situation occurring again. The patient safety processes have recently been reassessed to ensure that staff remain compliant. As a further assurance the HSE is arranging an assessment by its dental inspectorate of patient safety control and policies in this area. An intensive infection control audit of the orthodontic unit is carried out once a year as part of the audit of the hospital. A routine audit is also carried out at least twice a year by the local cross-infection team. The Dental Council has been notified of this individual case. The council is liaising with the HSE and treating this as a matter of priority. The General Dental Council in the UK has also been notified to ensure that any patient safety issues will be dealt with in tandem if necessary. I assure the Deputy that there is no ongoing risk to the public in relation to this case. The matter is receiving urgent attention in the HSE. My colleague, the Minister of State, Deputy White, expects a report early in the new year.

**Deputy Denis Naughten:** I thank the Minister of State for her reply but she did not address the core issue underlying the matter, namely, the potential risk of infection for the children involved in the debacle. Everyone has said checks and balances will be put in place but what is being done about the potential risk of infection for the children who were involved? The HSE is failing to deal with public health and infection issues and is using the excuse that it cannot comment because the matter relates to an individual member of staff. I want reassurances on the issues relating to infection that I have raised publicly and on which I have written privately to the Minister. I raised the issue on a couple of occasions by way of parliamentary question with the Minister of State, Deputy White. The response that I have received is not good enough; that the Minister is waiting for the HSE to come back to him on whether there are any outstanding issues.

The Minister of State, Deputy White, has been aware of the matter for a month. We should know what has happened since then. When did the Dental Council become aware of the matter? Why is it only now that it is inquiring into the matter and making it a priority? Why has it not been a priority in the past four years? When was the dental authority in the UK made aware of the matter, and was it informed that the dentist was not allowed to have direct patient contact in this jurisdiction? What steps have been taken in the past four years to deal with the potential risk of infection? Those critical issues must be clarified because there have been significant breaches of cross-infection control procedures and of data protection.

**Deputy Kathleen Lynch:** As soon as the Minister became aware of the issue he made inquiries and treated it as a priority. It is not unreasonable to expect that a comprehensive report would take a month or even two to conclude. The report will concentrate on the outstanding issues such as the re-use of the braces and the contact made in that regard. The issue is being dealt with internally in the orthodontic unit in Merlin Park. The infection teams have been there, as has HIQA, and reassessment has taken place of the training provided. The outstanding issue is the re-use of the braces within the private sector. It begs the question of whether the private sector dentist knew the braces were coming from another dental practice. They are the key questions that require to be answered. It is not unreasonable that we would await the compilation of the report.

**Deputy Denis Naughten:** I accept the Minister of State's response but the difficulty is that the matter came to the attention of the HSE four years ago and the answers should be available. That is at the heart of the scandal and that is why I do not have confidence in the individuals carrying out the investigation.

**Deputy Kathleen Lynch:** No doubt we should have the answers but the matter just came to our attention recently.

**Deputy Denis Naughten:** I accept that.

### **Thalidomide Victims Compensation**

**Deputy Clare Daly:** The Minister of State is aware that RTE's "Prime Time" programme recently shed light on the Government's handling of the thalidomide scandal in the 1960s. Documents produced show that the Government made a conscious decision not to issue a public warning on the dangers of thalidomide as such a move was regarded as "undesirable". That has serious ramifications for a scandal that has gone on for decades at this stage. Thalidomide was a drug marketed for morning sickness but problems arose with it which led to the foetus in many instances being malformed and the children being born with serious lifelong physical defects. The German Government and chemical company involved brought forward a compensation package years later. I am aware the programme for Government gave a commitment to reopen discussions regarding this compensation programme. Many of the survivors, of which there are 32, are seeking an enhanced care package with access to adapted housing, cars and other services. They are saying that the spirit of the agreement entered into with their parents in the 1970s should be honoured.

Discussions between them and the Department broke down earlier in the year. The Minister for Health said they had broken down on the basis of legal advice to the Government that the State does not have legal liability for injuries suffered by the survivors of the drug. The recent

revelations from documents from the Department cast doubt on the accuracy of the Minister's statement, however. If the State was well aware of the concerns about the drug in 1959 but failed to take any action until the middle of 1962, then several of these survivors and victims of thalidomide have a legitimate case to argue the State is wholly responsible as it had possession of knowledge with which it refused to deal.

At the time, the drug company involved had withdrawn the drug from the market. Some of the quotes from the Irish State authorities at the time in the recently disclosed documents seem quite callous. Basically, they said because the drug companies had withdrawn it, they need not worry about it. This was inappropriate. Another document reveals, "It was felt that any supplies which had already reached domestic stocks presented a special problem that could only be tackled by public announcements. This step was regarded as undesirable. It was thought that even if it were taken, it would prove largely ineffective". Sadly, we will never know because the public announcement was not made. Instead, we had a confidential circular issued with an inadequate recall of the drug.

These documents alter the balance of forces in the Government's position on the negotiations with the thalidomide survivors. The points made by the Minister in July that the State is not responsible have been shown up to be not the case. I hope the Government will take this into account in addressing the outstanding concerns of the victims of thalidomide for adequate compensation to meet their needs.

**Deputy Kathleen Lynch:** Before I give the official answer, it often strikes me that it can come across as clinical and simply giving the facts. Everyone in this State knows of a person with a difficulty from thalidomide. I accept sympathy does not pay the bills either. It is also not a case of the Government refusing to open to negotiations.

I am pleased to take this opportunity to outline the current position on the Irish survivors of thalidomide. When one thinks there are only 32 survivors, who would not want to deal with this problem?

Lest there be any misunderstanding, this Government did not suppress any information. The document referred to in recent media reports is a document dating from 1974 prepared by officials in the Department of Health for the then Minister. This document, among other matters, outlines a position adopted in 1962. The distributors of thalidomide in Ireland suspended distribution of the drug in December 1961 and then withdrew stocks of the drug in January 1962. It was decided at that time not to issue a public statement. The document, however, outlines that it was decided in June 1962 that the most effective step to take to deal with the issue was to circulate all chief medical officers to ensure all doctors, chemists and hospitals in their area would secure the return of any unused stocks. As Deputy Clare Daly said, how were we supposed to get to women who had it in the medicine cabinet already?

It is important to bear in mind that action taken in 1962 should not be judged or reviewed applying the rules or regimes applicable today. I am sure we would not do today what was done then. It would seem the position in Ireland did not materially differ from the position in other European countries at the time. Few countries then had systematic controls for licensing drugs and it was in the light of the thalidomide experience that most countries developed such arrangements. This was reiterated by one of the thalidomide survivors on the recent "Prime Time" programme on the matter. The document states: "It is of interest to note that the attitude of the British authorities was no different." This is not an excuse.

18 December 2013

This document was released by the Department of Health in 2010 to solicitors representing Irish survivors of thalidomide, along with all other records available to the Department relating to the period in question. The Government's focus is to address issues which remain and the programme for Government includes a commitment to reopen discussions with Irish survivors of thalidomide. Given the challenges that persist for each individual, the Government's aim is to address the health and personal social care needs of thalidomide survivors living in Ireland.

There are 31 Irish survivors of thalidomide receiving tax free payments from the Department of Health. A German foundation also pays Irish survivors of thalidomide, payments which are also tax free. Since 1 August 2013, the German foundation has substantially increased its monthly payments to Irish thalidomide survivors. In addition, 15 survivors who accepted it at the time received a once-off payment from the Department of Health in July 2013 of €62,500.

Up to 22 of the Irish survivors of thalidomide have initiated personal injury claims against the State. A mediation conference is proposed for these claims. It is hoped this can proceed early in the new year. Both I and the Minister for Health are determined to ensure equality of treatment for all Irish survivors of thalidomide. The Government will continue to work to find a way forward to progress matters for Irish survivors through discussions. All Members are anxious this matter is resolved as quickly as possible.

**Deputy Clare Daly:** While dealing with 32 survivors might seem a small figure, this process has trundled on for decades, over the lifetimes of these victims. The State did not consciously suppress the 1974 documentation but what is revealed is the extent of knowledge which was not shared. Had it been shared, lives could have been changed. In that sense, the State responded inappropriately and is culpable to a degree. The programme for Government accepts State culpability and agrees on the provision of an adequate compensation and care package. The necessity for a proper package is the most persistent demand from the survivors. When we raised it previously, the Minister for Health has said as they get a medical card, they can apply for housing adaptation grants and so forth. They have applied for many of these services but not received them. They want these services to be ring-fenced and guaranteed as a right to people to whom an injustice has been done. We now have the proof that there was knowledge about the dangers of the drug, a better response could have saved many. Hopefully, we have learned from this. The State's response in 1962, through a confidential memorandum to the medical profession, was wholly inadequate. At least this would not happen now. Transparency and knowledge is a good development that should be encouraged rather than authorities trying to keep a lid on matters.

**Deputy Kathleen Lynch:** We are all singing from the same hymn sheet in that knowledge and transparency is what will protect us all. We already have care packages in place for hepatitis C sufferers so we know what is needed in this case. It is a matter of agreement but there is some disagreement between some of the group themselves. There is a solution and we just have to keep trying to find it.

*Sitting suspended at 3.21 p.m. and resumed at 4.21 p.m.*

### **Appropriation Bill 2013 [Certified Money Bill]: All Stages**

**An Leas-Cheann Comhairle:** In accordance with the Order of the House today, I must put the following question: "That the Bill is hereby read a Second Time; that the amendment set

down by the Minister to section 1 is hereby agreed to; that section 1, as amended, and sections 2 to 4, inclusive, are hereby agreed to in Committee; that the amendments set down by the Minister to Schedule 1 are hereby agreed to; that Schedule 1, as amended, and Schedule 2 and the Title are hereby agreed to in Committee; that the Bill, as amended, is, accordingly, reported to the House; that Fourth Stage is hereby completed; and that the Bill is hereby passed.”

Question put and agreed to.

**An Leas-Cheann Comhairle:** The Bill which is certified to be a money Bill in accordance with Article 22.2.1° of the Constitution will now be sent to the Seanad.

### **Social Welfare and Pensions (No. 2) Bill 2013 [Seanad]: Report Stage (Resumed) and Final Stage**

**Deputy Clare Daly:** I move amendment No. 3:

In page 9, between lines 19 and 20, to insert the following:

“9. The Principal Act is amended by inserting the following new section after section 47:

“47A Where the company is solvent the discharge of the liabilities of a relevant scheme under (1AB), the resources of the relevant scheme are not sufficient to discharge,

in whole or in part, the liabilities of the scheme in respect of the benefits referred to in paragraphs (b), (c) and (d) of subsection (1AB), or any of those benefits referred to in any of those paragraphs, the employer shall, in accordance with section 48A, provide such moneys as are required to provide for the discharge of

those liabilities in respect of those benefits in accordance with those paragraphs.”.

Amendment put and declared lost.

**Deputy Róisín Shortall:** I move amendment No. 4:

In page 9, between lines 19 and 20, to insert the following:

“9. The Principal Act is amended by inserting a new section 48A as follows:

“48A. A solvent firm shall not be allowed to wind-up a defined benefit pension scheme except where the scheme has reached a level of 100 per cent under the funding standard, subject to a maximum pension benefit of €60,000.”.

Amendment put and declared lost.

**An Leas-Cheann Comhairle:** Amendments Nos. 5 to 10, inclusive, 13 to 21, inclusive, and 23 to 28, inclusive, are related and may be discussed together.

**Deputy Aengus Ó Snodaigh:** I move amendment No. 5:

In page 9, to delete lines 29 to 36, and in page 10, to delete lines 1 to 5 and substitute the following:

“(a) firstly, a PRSI contributions record sufficient to ensure eligibility for the full State Pension for every retired scheme member who has not attained this record themselves and an age-appropriate equivalent for those that are pre-retirement;”.

These amendments represent a different order of priorities than what the Minister has suggested in the event of a fund becoming insolvent. I am referring to single rather than double insolvency. The objective is to capture more equally what will happen in that event and to ensure it is not just existing pensioners who are protected, as happens, but also active members - those paying into the fund - and deferred members. They should all receive a more equal slice of the cake. We have suggested in the amendments that, at the very least, everybody have the missing PRSI contributions purchased for them by the fund to ensure every single person in the pension scheme would qualify for a State contributory pension. That is vital because it is worth about €12,000, the figure the Minister has in her own order of priorities. If that was done, at least everybody across the board would have a contributory pension. This is particularly urgent for those who are near retirement age and who, without this provision, could be paying into a pension fund that could collapse later, following which they would be left with nothing. That happens and has happened to some. At least, they would then be able to fall back on a State contributory pension.

I tried to get the transcript of the discussion when we discussed this issue on Committee Stage, but it is not available yet owing to the rushed nature of the Bill. As a result, I have not been able to check exactly what the Minister said in reply. That is a pity. It is a poor legislative process when we cannot have time to put amendments together.

People signed up for these defined benefit packages and at the time many had a different PRSI stamp because they were going to have these guaranteed pensions. Now it is emerging that they do not have these guaranteed pensions and some people lack the required number of PRSI stamps, especially since there are changes to the way one qualifies for the State contributory pension which would guarantee all pensioners at least €12,000. If that is not done, many will end up dependent on the non-contributory pension and it will cost the State money one way or another. At least this way the contributions are being purchased by the funds. The 100% of benefits up to €12,000 for those currently in a scheme would mean that pensioners would have €12,000 and the State contributory pension; therefore, we are talking about a figure of nearly €24,000. It is not a gilt-edged pension like those some people have, but it is much better than the current state of affairs for some in receipt of pensions. One then goes back and forth between active members, deferred members at different ages and existing pensioners. The reason is to ensure those on the lower scale and the lowest pay during the years and who tend to be on the lowest pensions will have this guaranteed as much as possible as the fund is being distributed.

We talked earlier about trying to ensure the companies which were economically viable would live up to their responsibilities. I will not go over that issue again, but on Committee Stage I asked whether there was any move in Europe to establish the equivalent of a globalisation fund. Under such a scheme, in the event that a company was closing its operation in Ireland but was still active elsewhere in the European Union, it would have responsibility for the pension fund in Ireland. That would help to address some of the problems we mentioned on earlier amendments and also to ensure there was enough money in the pension fund of a collapsing defined benefit scheme to ensure distribution according to the criteria I have laid out.

There is urgency attaching to this issue, which is why we have not opposed the Bill or sought to delay its passage. We have the figures. There were 2,500 defined benefit pension schemes in previous years. It is now down to 800, which affects approximately 200,000 people. That is a large number.

**Minister for Social Protection (Deputy Joan Burton):** Very large.

**Deputy Aengus Ó Snodaigh:** We need to ensure that whatever protections we can provide are accepted and that they are as robust as possible. I will not oppose the Bill and hope it will go further. That is why on Committee Stage I expressed my disappointment that the Mercer report which was a review of the pension scheme wind-up priorities and which the Minister had commissioned had not been published. When I received it, albeit late in the day, I was able to use it to examine my proposals to see whether they complied with any of the models Mercer had run and whether the Minister's proposal was a replica of some of the numbers and figures run.

**Deputy Joan Burton:** My proposal is not exactly the same as that in the Mercer report.

**Deputy Aengus Ó Snodaigh:** That is what I am saying.

**Deputy Joan Burton:** I improved significantly the thresholds for pensioners.

**Deputy Aengus Ó Snodaigh:** Neither of our proposals complied with it, but one can extrapolate from the data the eventualities of this, that and the other. I have said that what the Minister has put forward is better than the existing model. However, it does not go far enough or as far as the Minister originally suggested in October 2011 when she said the issue would be dealt with. She could have gone much further to ensure equality or fairness across the board. She mentioned the Attorney General's advice. It is always a pity when advice is quoted that we do not have access to it. I know there is Cabinet confidentiality, but it would be helpful if the issue was considered in the future. If one is being quoted legal advice, it is nice to see it in order that one can agree or disagree with it, challenge it or show it to one's legal advisers to see if they have a different opinion because the Attorney General is not always correct. Part of the advice is that one does not always put a cap on the amounts that can come out of a pension. Amendment No. 21 in my name proposes a cap. In the case of a distressed pension fund, where not all of the money expected will be distributed, this would ensure nobody would get over the odds and that everybody would get as much as those at the lower end as possible. If, at the end of all the distributions in the order of priorities, there is money left to give those over €60,000 their funding, one might distribute it. If that were the case, it would mean that the fund was very near the figure of 80% or 90%. Having a cap would send the message that those at the lower end of a pension fund would be protected.

I will not repeat the earlier arguments I made on Committee Stage, albeit that it is a pity the information is not available for the public to view. Some of the arguments I made on the Mercer report should be exercised again and we should have that discussion about the risk of leaving active and deferred members at a loss over and above some of those who have a much higher pension, over €60,000, which some call gilt-edged or gold-plated pensions. The Minister has made an order. Some of the steps should be introduced at an earlier stage.

I will leave it at that because other Deputies want to speak.

**An Leas-Cheann Comhairle:** I ask Deputies to bear in mind that I will be putting the question at 5 p.m.

**Deputy Willie O’Dea:** On which amendment are we?

**An Leas-Cheann Comhairle:** We have a long list of amendments which are being discussed together. They are amendments Nos. 5 to 10, inclusive, 13 to 21, inclusive and 23 to 28, inclusive.

**Deputy Willie O’Dea:** Amendment No. 12 in my name has been ruled out of order. In amendment No. 13 I am trying to achieve a variation of amendment No. 12.

Pension schemes are infinitely various and there are differences between all of them. Even within pension schemes pensioners can be treated in different ways, for example, in the contributions they make. Some people have worked in a firm for much longer than others. Therefore, one size does not fit all. Some account should be taken of length of service and other conditions with which pensioners have to comply which might not apply to their counterparts. As the Bill stands currently, everybody is guaranteed the same amount - €12,000 - in the event of a wind-up of a pension scheme in a single insolvency. These differences should be taken into account and should be reflected in the figure.

**Deputy Clare Daly:** There is quite a range of amendments in this group and many of them involve complex issues which need time that we obviously do not have. I agree with the point made by Deputy O’Dea that the flat percentage being proposed by the Minister does not give any recognition to some important variable factors, such as length of pensionable service, the amount the person contributed over his or her working life or the age of the person on retirement. All of these variables form part of the calculation to arrive at the amount of pension and should in some way be factored into this scenario in order to provide equity.

There are some issues at stake that are covered by this group of amendments. What the Minister is seeking to do is to guarantee a certain threshold of benefits and also to alter the current situation in which anybody in receipt of a lower pension is not eligible for any cut. However, now a cut would be permissible for those on amounts over €12,000. A 20% reduction would apply to those on pensions of €60,000 or more. This lets high earners off the hook. One of the amendments in this group provides for a greater hit for those with pensions in six figures, over €100,000. The amendments propose a reduction of 50% in that scenario. It would be fairer to hit the high earners on lucrative pension schemes. This would meet the definition of proportionality far better than hitting somebody on the lower level.

A pension of €12,000 or slightly above that is quite low. I note the Minister has said that in many instances people would also be in receipt of a State pension and their pension therefore would amount to €24,000. That may not be the case, however, because the person may not be in receipt of a State pension. Some of my amendments agree that the appropriate figure is €24,000, which is two-thirds of the current average industrial wage. Guaranteeing a pension at that level and not allowing it be cut is appropriate in the current circumstances, but I am not sure the Bill as constituted does this, because some people would not be in receipt of a State pension.

Proportionality is important here. The implication is that somehow existing pensioners have got off lightly in the defined benefit pension crisis. The Minister could argue that point, but it must be taken into account that many pension schemes have not been paying consumer price index hikes in their pension provision over the past number of years. Many of the big schemes do not provide for this. For example, the ESB, the banks, the airport schemes and so on have frozen pensions for their employees, although there is some relief in that regard cur-

rently. Therefore, *de facto*, pensioners have contributed to moneys going back into the pot to be shared or to keep others afloat. If inflation was at 2%, over a ten year period €100 would only provide the purchasing equivalent of approximately €60. These people have therefore made a contribution, and we must look at the issue more closely.

The point is that when this legislation is passed, the position of deferred pensioners will be improved compared to what it is today. However, it will not be as good as it was in 2009. Those points have been well articulated here. Previously they were treated in the pensioner category, but as a result of the change in 2009 they have been included with the others. We will probably not have time to deal with the points made in the significant correspondence we got from many people in regard to the later amendments, but those points should be taken on board. Unfortunately, they do not appear to have been; nor have those points regarding right of audience and so on.

**Deputy Róisín Shortall:** I support the general thrust of this group of amendments. This Bill allows trustees of a scheme to reduce the minimum benefit of a defined benefit pension scheme to €12,000. This is far too low. The purpose of amendments Nos. 15, 16, 18 to 20, inclusive, 23 to 25, inclusive, 27 and 28 is to ensure that the minimum pension benefit should not fall below the basic rate of the non-contributory State pension plus that of an adult dependent, because that is the level below which the State has decided a person cannot exist without undue hardship. For that reason, it makes sense to peg the minimum pension benefit at that level. We could pick different figures, but the State itself has claimed that the figure of just under €19,000 is the minimum amount a pensioner couple would require to survive. There is sense in that. Pegging the minimum pension benefit to a State pension payment would mean that pensions would be index-linked for the future. It is important to take this into account. Based on the rate of inflation, there should be commensurate increases in the minimum pension payable. As has been stated, in most cases people in private pension schemes also have an entitlement to a State contributory pension, but not all of them do. We need to ensure that we cater adequately for people who are not entitled to a contributory State pension.

When I spoke on this issue on Committee Stage and discussed taxpayer liability, the Minister stated that this does not arise in the case of a single insolvency situation but only in a double insolvency situation. Taxpayer liability would arise in a situation in which the minimum pension benefit was only €12,000, because in the case of a couple that couple would be entitled to claim a non-contributory pension for the spouse. This means the State will be picking up the tab and taxpayer liability is involved. To return to the arguments made this morning, what the Minister is doing here is shifting the financial responsibility away from the employer, even in a situation in which the company is profitable, and onto the State. There is no justification for doing this.

Liability does not arise only in regard to the entitlement of the spouse of a pensioner to a non-contributory pension, as there are other costs. There will be higher costs due to the provision of medical cards, fuel allowances, household benefits packages and so on. Therefore, there are significant potential costs for taxpayers, but there is no justification for shifting those costs onto them. For this reason, I believe the pension needs to be pegged at the higher level. Why should the Minister, on behalf of the State and taxpayers, take on the financial liability?

In regard to limiting pension benefits to €60,000, I found it extraordinary to hear the Minister this morning defending the right of people to retain pensions in excess of €60,000, given all that has happened in this country in recent years and given the collapse in so many pension

schemes. It is amazing that the Minister seeks to defend these pensions. The people we are talking about with these highly generous pensions are people in senior management, bankers and so on. The Minister is defending a situation whereby they would retain an entitlement to a pension in excess of €60,000 at the expense of people who may have a very small pension provision of €12,000. The Minister spoke about the response needing to be proportionate and fair, and this is true. How can the Minister possibly defend pensions in excess of €60,000 while cutting the pensions of people at a much lower level? In any such move the decision must be proportionate and fair and must also take into consideration the common good or public interest. I do not believe the Minister is doing this by allowing pensions in excess of €60,000 to continue. Overall there does not seem to be much coherence in this. The Minister needs to revise the figures. It is very unfortunate we are being squeezed like this so we will not have adequate time to discuss various aspects of it.

A right of audience for pensioners should be ensured and deferred pensioners should have a right to be consulted and have their say. We know this has not been possible since 2009 and the Labour Relations Commission has made this quite clear. This situation is opening up for several thousand deferred pensioners and it is very important they are given a voice. The Minister spoke about having several rounds of consultation but this is no substitute for a statutory arrangement whereby they can give their views and must be consulted prior to the Labour Relations Commission making an adjudication. It is unfortunate the Minister is overlooking the many deferred pensioners who might have contributed to a pension scheme over 37 or 38 years and suddenly found the rug pulled from under them. They had a legitimate expectation to get a reasonable pension and now this will not happen. They should be given a statutory voice in the process so they can be consulted and taken into consideration fully when trustees make a proposal on the restructuring of a scheme. It is quite unfair.

**Deputy Joan Burton:** Many points were raised and unfortunately our time has been cut very short. This is a rebalancing effort. We hope nobody has to suffer serious cuts in their pensions. If, as Deputy Ó Snodaigh stated, the fund is highly funded, which a significant number are, the consequent reduction would be far smaller than anything outlined in the legislation because it will be a repetitive process until the final distribution is made. A tone is coming across that this is mandatory whereas it is the final outcome for heavily underfunded schemes, down to the situation of a double insolvency.

On the issue of representation of pensioners, as I stated last week and on Second Stage it is a labour relations issue and, to be clear, it must be considered in the context of industrial relations legislation. I stated on Committee Stage the matter can be explored in this context, and following discussions on various Stages of the Bill the officials met with pensioner representatives this week to tease out what way it could be done. On foot of this consultation I will write to the Minister for Jobs, Enterprise and Innovation, who has responsibility for industrial relations, to see what can be done. It is not part of this legislation and I want to be clear on this. I am perfectly happy to do this.

I want to be clear the Bill does not give any entitlement to trustees, as may have been implied, to reduce pensions to €12,000 or any other figure. This is in the context of a restructuring where we are trying to save the maximum amount for all pensioners in a rebalancing way where the pensioners with the highest level of pensions contribute the most. This is the purpose of what we are trying to do and why at the outset on Second Stage Deputies from various parties broadly welcomed the Bill and stated they were supportive of it.

With regard to the 20% and the €60,000, I set out for the Deputies this is the advice made available to me and with regard to bringing forward legislation. To ignore legal advice would risk the legislation being ineffective. This reform is badly needed and has not been addressed before despite the pensions crisis.

I understand the points made by Deputies Daly and Shortall, but we are discussing people who do not have a contributory pensions record. I explored the history of this and the fact is in certain semi-State bodies people did not pay a contribution for a contributory State retirement pension. The legislation *per se* has nothing to do with the State retirement pension except, as Deputy Ó Snodaigh stated, when I received the Mercer report and we had all the other consultations I mentioned. Deputy Ó Snodaigh has studied the Mercer report in detail and the proposals on the ceiling were far lower than what I have been able to achieve. I have achieved double what was set out.

One must bear in mind the median pension in the private sector is €11,000 and this is covered. People in the private sector are most likely to have made State PRSI contributions to qualify for a State retirement pension. For decades employees and management in semi-State companies did not want to make contributions, and this was probably an advised, considered decision at the time it was made. As a consequence of these employees not qualifying for a State retirement pension because they never contributed to it - and pay 0.9% while by and large semi-State companies as employers pay up to 3% whereas the actual contribution is 14.75% - their average pension is €22,000, which is much higher than the €11,000 in the private sector. This situation was a feature of semi-State companies and was agreed until it was changed in 1995 and full contributions became the norm for new employees. The cost to buy back a State pension contribution is approximately €300,000.

Deputy Shortall raised the issue of a pensioner couple and she is right. I have not included it in the calculations. In the case of a pensioner couple where there is a €12,000 pension and an entitlement to a State retirement pension, the pensioner couple would receive €12,000 and the dependent pension payment. We are not calculating this because when pensions are paid by a firm, whether semi-State or private, no consideration is given in the calculation to the relationship or dependency status of an individual member of a pension fund. It is simply not possible to work this in our system. Is there a cost to the State of providing for a dependent pension? Yes there is, but it is one every party in the House is happy to pay because it is a recognised cost in the State system of providing for pensions.

*5 o'clock*

It is not necessarily an explicitly recognised cost in private pension schemes other than when somebody becomes widowed who was formerly a pensioner. That is something that applies in these cases.

I thank all of the officials who have worked hard on this legislation which is in a complex area in which no legislation has been introduced for a long time. I hope it will be of significant assistance in getting more pension funds over the line in the context of their sustainability and viability. I also thank all of the Members who contributed on the various Stages, particularly the spokespersons on social protection. Everyone made a valuable contribution. I referenced the preparation of guidance and guidelines and indicated that we would examine a number of issues. We will also contact the Department of Jobs, Enterprise and Innovation regarding a right of audience for pensioners, an issue which was raised on Committee Stage.

18 December 2013

**An Leas-Cheann Comhairle:** As it is now 5 p.m., I am required to put the following question in accordance with the Order of the Dáil of this day: “That Fourth Stage is hereby completed and that the Bill is hereby passed.”

Question put and agreed to.

**An Leas-Cheann Comhairle:** A message will be sent to the Seanad acquainting it accordingly.

### **Pyrite Resolution Bill 2013 [Seanad]: Second Stage**

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I move: “That the Bill be now read a Second Time.”

I am delighted to have this opportunity to introduce the Pyrite Resolution Bill 2013 to the House. The Bill represents a very important step on the road to providing sustainable and workable solutions within a reasonable timeframe for home owners affected by pyritic damage, many of whom have had to endure the stress and practical difficulties of living in homes affected by pyritic damage for considerable periods of time.

Developing the structures necessary to provide for a remediation scheme has proved particularly difficult and, regrettably, has taken much longer than I anticipated. I have always been clear in my view that the parties identified in the report of the pyrite panel of July 2012 as having direct or indirect responsibility for the pyrite problem should contribute to its resolution. Following receipt of the pyrite report, I engaged in lengthy discussions with the identified parties to put in place a framework within which these parties could bring about a resolution of the issue, including an appropriate funding arrangement. I was disappointed that it was not possible to get the parties to agree a voluntary solution and, in the absence of such agreement, I sought and received Government approval for the funding of a pyrite remediation scheme from the imposition of mandatory levies on the quarrying and insurance sectors. Unfortunately, legal difficulties arose during the drafting of the required legislation and it was not possible to proceed on the basis of the Government approval.

While I have always said the State is not responsible for the pyrite problem, a view supported by the report of the independent panel, it would be unacceptable to leave affected home owners without a sustainable solution. Alternative funding options were considered, but for various reasons, none was adjudged to be workable. Having regard to the exceptional nature of the pyrite problem and the circumstances in which it occurred, a scheme funded by the Exchequer was the only sustainable and practical way to provide a solution for affected home owners. In spite of budgetary constraints, the Government recently approved initial funding of €10 million, with additional funding provided from a stimulus package to be agreed early in 2014. This will enable the homes identified as being most severely damaged to be remediated over a two year period.

The Bill before us was passed by the Seanad yesterday evening following a constructive and supportive debate. Deputies should note that the current version of the Bill contains some amendments to the Bill published last week. Many of these amendments are of a minor drafting nature, but I will refer to the more substantial ones. The main provisions of the Bill provide for the establishment of the Pyrite Resolution Board on a statutory basis and the operation of the

pyrite remediation scheme. Earlier this year I set up the board on an administrative basis and following enactment and commencement of the Bill, it will be established on a statutory basis.

The report of the independent pyrite panel provides the backdrop for the Bill. The principle behind the Bill is to provide a solution for a restricted group of home owners whose homes are affected by pyrite. The scheme is one of last resort and eligibility will be confined to one dwelling per owner, subject to specified exceptions. The scheme does not apply to housing provided on a commercial scale and dwellings owned by builders or developers who constructed the said dwellings, or persons connected with them, will be excluded from the scheme. The Pyrite Resolution Board will establish priorities for remediation based on the severity of damage and the most economic and effective use of resources. It may also group dwellings in need of remediation together for the purposes of achieving efficiency and cost effectiveness through economies of scale.

One of the key recommendations made in the pyrite report was the categorisation of dwellings as red, amber and green as a means of prioritising the remediation of affected dwellings. The Bill follows this approach by providing for a pyrite remediation scheme for dwellings affected by significant pyritic damage having regard to Irish Standard 398-1:2013. This standard was developed and published by the National Standards Authority of Ireland in response to a recommendation made in the pyrite report. This approach is both practical and sensible. The remediation of dwellings is an expensive and disruptive process and it would be unrealistic to expect dwellings not exhibiting damage to be remediated.

Section 14 of the Bill sets out the detail to be provided in the terms and conditions of the remediation scheme and what the board shall have regard to in setting the eligibility criteria of the scheme. The terms and conditions of the scheme will cover such matters as requirements for compliance with the standard for testing and remediation, scope of works to be carried out and, importantly, the certification required when the works are complete. The scheme will apply to dwellings within the geographical areas identified in the pyrite report where the home owner can establish to the satisfaction of the Pyrite Resolution Board that he or she has no other practicable options to obtain redress other than under the scheme. It is not intended that the financial resources of individual applicants will be considered as part of the assessment of available options, although a number of other pertinent factors will be considered, including the extent of structural warranty cover or other form of insurance cover available to the home owner or legal actions being pursued by or on behalf of the applicant.

Provision is made in the Bill to enable the Pyrite Resolution Board to institute civil proceedings to recover damages or costs from a person whom it believes is responsible for pyritic damage to the dwelling of an applicant under the scheme on foot of any arrangement agreed between the board and the applicant. The Bill also contains a provision which requires a home owner who received compensation subsequent to the board completing remediation works or where remediation works have not commenced or have commenced but have not been completed to recoup to the board costs he or she has incurred under the pyrite remediation scheme in connection with that dwelling.

This is not a compensation scheme. Home owners will not be able to seek the recoupment of costs associated with the remediation of a dwelling undertaken prior to the commencement of the scheme. Inclusion in the scheme is predicated, *inter alia*, on the dwelling being subject to significant damage attributable to pyritic heave and where this can be verified, having regard to IS 398:1-2013, prior to works commencing. This is in line with how similar Government

schemes operate or have operated in the past, whereby prior approval is a key eligibility requirement for a scheme. The Bill provides that, in exceptional circumstances, a dwelling which does not meet the eligibility criteria of the scheme in terms of either the severity of damage or on the grounds of ownership may be included in the scheme if it adjoins another dwelling being remediated where the board considers that its exclusion may cause damage to either dwelling.

The scheme provides for a two-tier appeals process. Decisions made by staff of the Pyrite Resolution Board can be appealed to the board and the decisions made by the board can be appealed to an independent appeals officer appointed by the Minister. The initial phase of the remediation programme will deal with *circa* 1,000 affected dwellings in the red category which are understood to be in need of urgent remediation. My Department and the board are confident that this figure is credible and its validity is supported by a number of positive indicators, including the fact that approximately 850 people have registered an interest on the Pyrite Resolution Board's website to receive an application when the scheme becomes operable. The board will be responsible for overseeing and directing the delivery of the pyrite remediation scheme and it has already made significant progress on developing appropriate systems and procedures. It is finalising work on the proposed online application and processing system and also working on developing other complementary systems, with appropriate checks and balances, to ensure effective and efficient programmes of remediation are delivered to affected home owners. Following the Bill's enactment, the board will prepare a draft scheme which will be submitted to me for my approval and, when approved and made, laid before the Houses of the Oireachtas. I understand the board will be in a position to accept applications early in the new year.

While the Pyrite Resolution Board will not directly employ staff, it will be supported by staff from my Department and also from the Housing Agency. Using staff from both the Housing Agency and my Department will enable the board to undertake its role efficiently and without the necessity for a separate and costly staffing structure. The board will submit an annual report to me no later than 30 June each year. These reports will be laid before the Houses of the Oireachtas. The Housing Agency will be responsible, *inter alia*, for the procurement of competent professionals and contractors, arranging for the testing of dwellings, awarding contracts and making payments in respect of remediation works and all other ancillary costs. Procurement will be in accordance with EU and national procurement rules.

As I mentioned, my preferred approach in dealing with the pyrite problem was for responsible parties to provide a voluntary solution. While this did not prove possible, the Pyrite Resolution Board is continuing to engage with HomeBond with a view to agreeing a process within which it can contribute resources to the remediation process. I know that some people have concerns about the possible role HomeBond may play in the implementation of the remediation scheme, but I want to make it clear that any agreement on the provision of resources will be fully transparent and any role it may play will be under the supervision of the Pyrite Resolution Board and the Housing Agency. At the other end of the scale, some are suggesting that the Pyrite Resolution Board or I should confiscate the funds HomeBond holds under the terms of its structural warranty scheme. This is not possible because HomeBond is a private company and neither I nor the Pyrite Resolution Board have any legal basis to sequester its funds.

The Bill provides a clearly defined legal framework for the delivery of practical and sustainable solutions for home owners. The scheme is fair and transparent and will restore the structural integrity of pyrite damaged homes at minimum cost to the taxpayer. I hope Deputies on all sides of the House will support this important legislation. I commend the Bill to the House.

**Deputy Barry Cowen:** While Fianna Fáil welcomes the Bill, we believe it does not go far enough in remediating the problems faced by thousands of home owners across Leinster. The remediation fund seriously underestimates the scale of the problem, the extent of which has not been fully uncovered and the presence of pyrite will only become fully apparent in the coming years. Home owners who have already spent considerable sums repairing their houses should also be covered by some mechanism for making retrospective payments.

It is welcome that the Pyrite Resolution Board is being put on a statutory footing. The Bill sets out the details of the €10 million remediation scheme for houses in the counties affected, namely, Fingal, Kildare, Meath and Offaly. This long awaited legislation is a significant step towards alleviating the distress endured by home owners affected by the scourge of pyrite. However, as I stated, it needs to be substantially enhanced and combined with real financial backup if it is to mark an end to the hardship endured by all home owners involved.

There are concerns, which I have expressed in the past, about the methodology used to quantify the number of houses affected by pyrite difficulties. Unfortunately, the Minister, Deputy Hogan, has consistently understated the scale of the problem. The scale that has been mentioned stands in stark contrast to the many tens of thousands of houses estimated to be affected by independent assessments, and I hope the scheme will be sufficiently flexible and well financed, in the future if not immediately, to accommodate the prospect of further pyrite-affected homes being uncovered in the coming years. I reiterate that home owners who have taken the initiative in rectifying problems with their houses should be covered, if not by this Bill then by amendments made thereto, rather than punished by denying them compensation.

The other issue that needs to be mentioned is the failure to address the impact of the denial of insurance to those in pyrite-affected estates, even in respect of homes that are not directly affected at this stage. The property tax exemption should be extended to cover these estates as a whole.

The pyrite report went a long way towards bringing us to this juncture. As I stated, there are concerns about the methodology used to quantify the number of houses affected by pyrite difficulties. According to the report, more than 12,000 homes in 74 unnamed estates could potentially be contaminated with the material from five quarries. This stands in contrast to the 72,500 houses estimated to be affected by independent assessment. Why is there such a dramatic gap between the original estimates and the number found by the panel? What specific methodology was used to quantify the houses affected?

**Deputy Phil Hogan:** Who are these persons?

**Deputy Barry Cowen:** The report concluded that the remaining 10,300 ground floor dwellings represent the maximum estimated future potential exposure to pyrite problems. Tackling the problem through the laborious method of removing the pyrite requires major intervention, and the typical cost for an average house is estimated at up to €45,000. This represents a massive cost to struggling home owners. In view of the scale of the problem, the Minister needs to provide strong legal support to these home owners. Home owners who have already taken action to deal with their own problems should not be penalised for taking action. The scheme should also encompass them.

The Government may have to offer additional financial support to bolster the remediation scheme next year to meet its immediate requirements. As the scale of the problem emerges,

additional assistance will be required. I expect that the Minister will recognise this in today's debate.

Arising from the report, the board was established in 2012 on a *pro bono* basis. The board, as the Minister stated, was empowered to take a flexible long-term approach. Is the Minister sure that the €10 million fund is adequate to deal with the real scale of the problem? We do not want a situation in which ordinary home owners are left to pay the price for the failure to directly confront this.

The panel found that the regulatory framework for hardcore in Ireland, prior to the identification of problems with pyritic heave, could be compared favourably with those in the UK and other jurisdictions where guidance evolved in response to specific problems.

Currently, the only way to ameliorate pyrite heave is to remove the ground slab containing the pyritic material and replace it with a new ground slab. The general process involved will see people leave their homes for up to 12 weeks while work is undertaken.

While a number of measures were taken subsequent to the discovery of problems, the Minister must ensure that the regulatory regime remains as strong as other jurisdictions in dealing with the problem. We cannot afford to allow this type of problem to emerge in the future. The Minister's much-vaunted building regulation standards must be adequately enforced by local authorities and kept under revision to ensure they meet the reality of construction on the ground.

My party welcomes the Bill. We acknowledge the work that has been done heretofore by the Minister and his Department in bringing about this solution, however small it might be at this stage. The scope of the scheme is open to further investment in the future if it emerges that the problem is much greater than initially envisaged, and I expect the Minister will make a commitment in that regard. I reiterate my contention that there should be some cognisance of the difficulties that exist and the lack of compensation for those who have rectified the problem already in the absence of adequate insurance, and that there should be some retrospective option for them to apply to the board for funding to be made available to recognise their difficulties and the necessity of saving their homes. My party will not oppose the Bill, but we hope, through the various Stages - no matter how short - to explore its contents in order to ensure that there will be the option in the future of addressing some of the issues I raised in my opening statement.

**Deputy Dessie Ellis:** I welcome this Bill, which represents a long overdue beginning to a resolution of the pyrite scandal. It has been nearly a year and a half since the pyrite report was published.

I pay tribute to Sandra and Peter Lewis and others in the Pyrite Action Group for their sterling work in pressuring and lobbying TDs and the Government to address the debacle that has resulted in this terrible situation facing thousands of families. I would also like to pay tribute to the late Minister of State, Shane McEntee, who put a great deal of work into finding a solution to this issue and was held in high regard by many of the families.

The pyrite issue, like the issues with Priory Hall, Gleann Riada, Balgaddy and others, exemplifies what was so rotten at the core of the Celtic tiger period. Profit was king and people were an afterthought at best. This scandal, like others, is the result of lax regulation and negligent building practices. These hangovers are the result of a greed that possessed the powerful in Ireland in those times. Corners were cut, profits were maximised and responsibility was reduced to lip-service.

This callous greed was shown up clearly by the behaviour of HomeBond. HomeBond was supposed to protect many of these families, but at the first sign of trouble it was found wanting. It has disgraced itself throughout the campaign by affected families for repair works. It abandoned many of its customers and snubbed the Oireachtas committee investigating it not once but twice. HomeBond's insurance should have meant that many home owners would never have needed to campaign at all. Given its conduct, I was disappointed when a HomeBond representative was placed on the building regulation advisory board. Instead of being a great comfort to families in a time of need, HomeBond only made matters worse. Residents who saw their dream homes crumbling as their mortgages were still being paid had to consider the possibility of even more debt to fix the problem and put a secure roof over their children's heads once again.

The Minister, Deputy Hogan, stated repeatedly that the State had no responsibility in this scandal. I disagree. The State allowed quarries to sell these contaminated materials, allowed builders to use them and then allowed companies such as HomeBond to behave as they have. Of course the State did not put pyrite in people's houses, but when regulation fails the State must accept its failure in this. The quarry and construction sectors are most responsible and it is unfortunate that we enter this new period and the beginning of a resolution without a clear method of recouping the public funds used for the remediation scheme. I am very glad that public money can be used until such a levy is in place, as I called for this from the first instance a levy was mentioned or thought of. The families in homes being torn apart by pyritic heave cannot wait for the details of levies to be ironed out.

I welcome the Minister's continued expression of a desire to see an industry levy in place in the future. The process of repairing the worst-affected homes is an expensive one and I fear that the current level of funds available will run low quite quickly when the priority cases are dealt with. The Minister said that more funds would be announced in the new year, and I hope this is true, as the longer the pyrite remains in those homes the worse they will become and the more expensive the work required will be. This is the reason I question the wisdom of not allowing the owners of houses with lower levels of pyrite to apply for remediation. Priority cases should be dealt with first, but allowing homes to deteriorate before they can be repaired seems like a recipe for a more expensive scheme in the long run.

There should be some measure in place to support families who, despite heaping great financial hardship on themselves, got repair work done and paid for it out of their own pockets. The Minister indicated that this measure would not be retrospective, but that is a mistake. Those people did not do that because they are affluent but because they were desperate and had given up waiting for a solution that they feared might not come. While they no longer fall into the category of priority focus, they should also benefit in the longer term from a levy taken from the construction and quarry industries.

As the Minister is aware, local authorities such as Dublin City Council and Fingal County Council have conducted repairs of estates and properties damaged by pyrite, which they and the Department have financed. One hundred and six units in Sillogue in Ballymun have recently been successfully restored and are now fully occupied and of the highest standard. Also, Avila Park estate in Finglas is being restored. There are other estates which I will not mention. Those families need a secure home, but the State is not wholly responsible for the presence of pyrite and the quarry and construction industry should face some of the financial burden of the repairs. Some builders took it upon themselves to repair homes they had built in order to preserve their good names. In those cases it was no small undertaking and they should get credit for their

responsible reaction and the way they handled matters.

In order for people to prove that they require repair work covered by the remediation scheme they will need to get costly engineer's reports. Such a report can cost anything from €3,000 to €6,000. I note that the Minister mentioned that the Housing Agency might have a role in this. It is important that it does, because the cost of an engineer's report is excessive. Will people be compensated for these expenses, which are required for the scheme to work? At a time when families are struggling to keep the lights on, this essential expense to secure the roof over their heads is not easily undertaken or afforded.

I understand that the primary focus of the scheme is to repair structures to secure habitation, but there is also a serious problem in many estates caused by pyrite in pavements, roads, walls and other structures. What will be done to deal with those issues, of which there are many? A number of the homes affected have had major pyrite damage not only to walls but also to fixtures and fittings. Door frames have been broken, fitted kitchens have been warped beyond use and pipes have been damaged, as have other fittings. This was caused by pyrite present in the concrete used in the build and in the stone underground, sold by quarries and okayed by this State's lax inspection system. Questions need to be answered about this, despite the major headline issue of pyritic heave being dealt with.

It is important that we have an independent appeals mechanism for residents who are affected. We have the red, amber and green system. Does that need to be examined more carefully in terms of the way we categorise these houses? Some of the houses I have seen in the amber category were in very bad condition. We know that 800 to 1,000 houses need to be tackled urgently at this stage, but we are not sure of the overall figure. The Pyrite Resolution Board has given us some figures, but many believe it is not up to speed with regard to the number of people affected.

The Minister mentioned the Housing Agency. Can he elaborate on its role, along with that of the Pyrite Resolution Board? Will it have a stronger role in determining cases? The Minister indicated that it would examine and determine each individual case. How will that be done? The Bill should take into account dwellings that have been affected, and it should be retrospective in its scope to include people who got works done and paid for it out of their own pockets.

What will happen with regard to the taking in charge of many estates where issues remain? Will the local authorities be pressurised into taking in charge many of these estates? In some cases the builders have gone and we will not see them again. My experience is that it takes years for councils to take estates in charge, even small estates.

I first encountered this problem more than eight years ago when I visited Avila Park. These houses had been built only a short while before, yet there were holes in the walls and gaps in the houses. The kitchen counters were warped in the same way as the floors, such was the level of the damage. Will the replacement of these fittings be excluded from the scheme? There is some indication that many of these fittings may not be included. I believe they must be included because people bought these houses with the kitchens fitted. They were bought as part of the scheme. Will the Minister take that into account?

We know that on average these units will cost €30,000 to €60,000 to complete. Some of the companies involved are better than others and some of the ones that have done work in Ballymun have done an excellent job. We want to get value for money from those who will do the

work on the houses, and that should be closely examined.

We will not oppose this Bill, but more needs to be done. I do not accept that people should be excluded in any way, because if they can prove their case that damage has been done to their properties over the years they should be compensated.

**Acting Chairman (Deputy Peter Mathews):** I call Deputy Clare Daly. I understand the Deputy is sharing the 15-minute time slot with Deputy Catherine Murphy. Is it seven and a half minutes each?

**Deputy Clare Daly:** Yes. The Minister will understand why there is no fanfare today. It is exactly a year to the day since we read the press release from his Department that up to €50 million in bank loans and levies to pay for the repair of pyrite-affected homes was on the cards. That was followed up by the Minister for Finance telling us that the victims of pyrite would have their property tax sorted out. I note the Minister's press statement from that day in which he stated: "While much work remains to be done to complete the jigsaw, I am confident that the end is now in sight for affected home owners." I do not personally blame the Minister for the situation, but he will appreciate that many people will say they have heard that announcement many times before. The Pyrite Resolution Board website was launched to fanfare in May, with the initial sum of €50 million, which was not enough, downgraded to €10 million. One year later, no applications have been accepted. We must be conscious of the families, many of whom are desperately hoping this is the pathway to a solution to the issue. I firmly believe we need a scheme up and running in order to be able to adjudicate whether that is the case. On that basis, I support the legislation because it is necessary to provide a legislative basis for remediation.

**Deputy Phil Hogan:** I thank Deputy Clare Daly, she is very generous.

**Deputy Clare Daly:** I do not think the remediation is adequate. I will support this for no reason other than to prove the Minister wrong in some instances. We must be mindful of the fact many families have already paid hundreds and thousands of euro getting tests done. They have completed the building condition assessment and have been evaluated as category 2 damage. Their houses are deteriorating rapidly as each day goes by yet the Pyrite Resolution Board cannot accept applications. The Minister tells us that, once the legislation is in place, it will lay the basis for that happening. We have heard that before and we really need it delivered upon urgently.

The Minister made the same point he has made every time since his election and since we first discussed the issue, that the State is not responsible. I must correct him in that regard. No one is saying the State organised this but negligence by the State authorities which were to oversee regulations was a contributing factor to the situation. The Building Regulations Advisory Board and the National Standards Authority of Ireland bragged in their literature that they were on top of best practice, technical expertise and keeping abreast of international developments. However, it did not know about pyrite found in Britain and Canada many years previously. There was knowledge of the geological composition of the Tober Colleen formation, in particular, being susceptible to pyrite and the fact that quarries were located there. The State was found culpable and found wanting. State action, by virtue of the fact the aggregates panel had to devise a new standard in the area, was an admission that the existing standard was not good enough. The Minister has acknowledged that. That Premier Insurance, the second-largest insurer in the State, will not insure properties up to the new Irish standard is indicative that the new standard is not good enough. It is not surprising because the aggregates panel is made up

of precisely the people from the cement and concrete industry, including many quarry owners whose quarries have been deemed to be legally responsible for the material ending up on the market. Another vested interest has been exposed in Irish society.

One of the greatest offenders in this debacle must be HomeBond and I am glad the Minister gave some time to it. However, I am sorry he did not address the point we have been making. HomeBond was set up by the Construction Industry Federation as a structural guarantee but it was not. There were warnings in the public domain as early as 2000 that the scheme was in difficulty and had a financial difficulty. It was allowed to continue. HomeBond is now a proper insurance scheme so there are no further draws on its funds other than, potentially, pyrite. Why do we allow it to sit on a €25 million bank balance when this scheme will kick off with a paltry €10 million? It does not make any sense. What makes it a greater insult to home owners is the organisation closed the door on these families, turned down their claims, and told them they did not have pyrite. When the courts said the quarries were responsible, HomeBond accepted that the houses had pyrite but said it was no longer the responsibility of HomeBond. The idea that these people have expertise and may be involved in the remediation process is an abhorrent prospect for home owners and they will not wear it.

I appreciate that this is the skeletal outline and that we will have the detail of the scheme later. We can deal with the detail on Report Stage tomorrow. However, there are some glaring omissions. Families in the State have paid tens of thousands of euros to do the work themselves. They did not do so because they were rich or had nothing better to do with their money; they did so because there was no other way in which dairy could make their homes safe. There are excluded from the provisions of the Bill. Pyrite Action Group and the home owners lobbying on this issue have not given up the ghost for those home owners who need justice. In the same way as the Minister has clauses in this that the industry should be challenged to foot the bill legally, if compensation comes from one forum then the same should apply to home owners. An issue has been raised in respect of who is eligible to access the scheme. The Minister said that those who were eligible will be those who have exploited all other avenues. There is a question mark over those who have initiated court action in desperation. Are they to be prevented from accessing the scheme? We need clarification on that.

I am glad that houses in category 1 are being included and that some that do not fit the Bill are included. All along, it has been argued that the only way to deal with this is a State-led, systematic, estate-by-estate approach rather than an individual case approach being copperfastened in legislation today. We will find it out to our detriment. There is an urgent need to get these applications live for saving on that basis and we will support the Bill even though we will table amendments on Report Stage.

**Deputy Catherine Murphy:** The debate on this legislation is welcome. Like others contributing to the debate, I am aware of others who are at a critical point in that they are close to the point of moving out of their homes. I know some of them personally, as most contributing to the debate do. They are doing so for reasons of pyrite heave, doors not opening and closing and part of the ceiling collapsing and walls cracking. It is critical that remediation occurs as soon as possible. I acknowledge the legislation and initial funding of €10 million. It is progress, even if it is more limited than what we wish.

The pyrite panel report was issued in June 2012. What we are doing today is substantially different from what was anticipated in it. The executive summary states:

The Government should ensure that strong leadership is provided to influence the engagement of the construction industry and related players in facilitating a resolution of the pyrite problem. A Resolution Board should be set up by the Government to handle cases which cannot be dealt with by other means. This should not be funded by the Exchequer but could be funded by, for example, a levy on the construction/quarrying sector or other means. In respect of paying for the remediation, it is accepted by all with whom the Panel met, that it should be paid for by those who have responsibility for the problem.

Court cases are in the pipeline. It is critically important that whatever action can be taken will be taken by the Government should the court cases open up new possibilities from the point of view of natural justice and accumulating sufficient funds to deal with the many thousands of households affected. Section 14 is the central part of the Bill, making provision for a pyrite remediation scheme. It is anticipated, and it is right, that the housing units worst affected are dealt with first. I do not anticipate any difficulty in grouping semi-detached, detached and terraced housing with various degrees of damage, even if they are not the worst. We do not want to see a piecemeal approach, which will be much more costly.

The Minister has pointed out that this is not intended to be a compensation scheme, but there is a serious problem for people who have pyrite in their homes but at a level that falls below the threshold. The value of these homes, should people wish to or need to move, is basically zero, but if they try to put zero on a property tax assessment, another organ of the State, the Revenue Commissioners, would quickly challenge the valuation. These people should be included in the scheme if the level of damage is low, as there will be a hierarchy anyway, with the most affected dealt with first and the least affected dealt with afterwards.

Excluding those individuals - rather than developers - in multi-unit developments who begged, borrowed and re-mortgaged their homes very heavily when they could not continue to live in them is again a matter of natural justice. I know some people with very hard stories in this regard and they are at the pin of their collar in trying to pay second mortgages. In one case a Velux window in a bathroom smashed into a thousand pieces on top of children. What can be done in such a position other than repairing the damage? If there is a hierarchy of action, these people will fall below those who require remediation in the first instance, and I do not understand why that has not been considered. If these people are not included in the scheme but there are successful court actions against which funding can be leveraged, will the legislation further punish people who take action in advance of its passage? I urge the Minister to include these people, as it is essential for them to be in the scheme.

A certification process is essential both for the people whose homes will be remediated and for those who have carried out remediation already. There is a blight that comes with pyrite, and I frequently get phone calls from people who are thinking of buying properties, although not many people are buying now. Where there is movement in estates, I am asked whether there are pyrite issues, which means there is a clear difficulty where people are affected. There should be certification so that people can have some certainty about the future. The banks and insurance companies have been incredibly unfair in this regard; they may refuse insurance or a mortgage on a house in an estate affected by pyrite. A certification process is therefore really important.

We anticipate that this will be a rolling scheme in terms of the funds available, with public moneys used to front-load the process and a levy to fund the rolling scheme. As Deputy Daly has pointed out, we have held on to every bit of information. This day last year, the Minister

anticipated that there would be an up-front fund of €50 million to establish the Pyrite Resolution Board to oversee the implementation of a comprehensive remediation scheme for pyrite-affected dwellings. At that point, agreement in principle from HomeBond, the Construction Industry Federation and the Irish Concrete Federation had been reached to establish a special purpose vehicle for a not-for-profit entity that would operate the remediation scheme. Where did that co-operation go? Why should these groups constantly need to be legally bashed into doing something that is ethical? Is there a prospect of re-engagement in this respect?

The proof will be in the scheme itself, as it has been talked about for a while. When we see houses being remediated a bit of confidence will be built, but much more needs to be done. I know the Minister would acknowledge this, and also that €10 million is wholly inadequate. We are all-----

**Deputy Phil Hogan:** I said it.

**Deputy Catherine Murphy:** I was at a meeting of the Committee on Procedure and Privileges. I have not yet managed bilocation.

**Deputy Phil Hogan:** This is where it is all happening.

**Deputy Catherine Murphy:** I know. The Minister might have arranged this for a different time to suit me.

When we see the scheme in operation, confidence may build, but so much more needs to be done.

**Deputy Helen McEntee:** I wish to share my time with Deputy Alan Farrell.

**Acting Chairman (Deputy Peter Mathews):** Is that agreed? Agreed.

**Deputy Helen McEntee:** Deputies will have to forgive me; I am out of breath, because I ran from the Department of the Taoiseach to be here. I thank the Acting Chairman. To say I am delighted to be speaking on this legislation and seeing it before the Dáil is possibly the biggest understatement of the year. The legislation means so much to so many people who have put up with pyrite for so many years in what can only be described as an absolute nightmare, and it will finally mean an end is in sight for the problem. As I am sure everybody knows, this legislation is personally important to me, as my dad became involved in the issue very early in his Dáil career. I hope the Minister does not mind me saying that it is only because of him that we are here today and that it has got this far. It could not be any more fitting that we are debating the Bill today and tomorrow, which is his birthday. It all ties together well.

I remember that when I came home from college one weekend some years ago, before I started working with my dad, he told me he had visited a young man's house that was affected by pyrite, and he explained what pyrite was, how it was in the infill material and what damage it did. He told me he could almost fit his hand in the crack in the exterior wall of this man's house and I could not believe what he said. The problem seemed to grow legs afterwards, and although the issue was raised in the Dáil by my dad, unfortunately Fine Gael was not in power at the time and the Government did not want to know about it. For those living with the problem at the time, that was unacceptable, and we are in our current position - with issues such as Priory Hall, as well as other similar cases - because of poor enforcement of building regulations. Essentially, there was self-regulation, which did not work. People needed to step up to

the plate at the time but, unfortunately, as the economy was booming, this was not a priority.

It must be said that there are builders, contractors, subcontractors and some quarries that have come up to the mark on this issue. They have not walked away from the people who bought these homes or turned their backs on people who put their trust in them. These people are fixing the affected homes, either with their own money or through insurance from companies that are paying out because of partial responsibility. It is not easy to place the blame on one party, but the people who are trying to help should be commended. On the other hand, there are builders, contractors, insurers and banks that have walked away from their responsibility completely, leaving the affected people high and dry. I really do not know how these people sleep at night, because nobody would want to find him- or herself in this position. Everybody was given an opportunity to be part of the solution but, unfortunately, not everybody decided to take part. That is why this important piece of legislation is needed and why we are here today.

It is a very positive piece of legislation. Although I will not go through every section, there are some items to be noted. I welcome the fact that the resolution board, along with the Housing Agency and the Minister for the Environment, Community and Local Government, are being given the responsibility of putting together this scheme which they feel will address the problem in the most appropriate manner. It will give them scope to use their knowledge in the best possible manner and make judgments in order to roll out the scheme as efficiently as possible.

I welcome the inclusion of category 1 with progression in the category of significant pyritic damage. Many people have been very concerned about the possibility that in order to get into this category their homes would have to have a damage rating of 2. This provides much clarity and gives the board the scope to see how it can roll this out. I welcome the fact that each financial year, the Minister, with the board, can make a grant to the housing association which can be used for implementation of the remediation scheme. It provides clarity on the fact that there is no time limit; when people require this help, it will be there. Section 12 refers to gifts, but are these likely to come from people in the industry? Does this relate to offers to provide assistance with no gain for themselves?

Overall, the legislation is very clear in what it sets out. I realise we could not include the people who have already fixed their homes.

*6 o'clock*

Perhaps we might examine that issue later. Obviously, the people concerned are in the same boat as those who have not fixed their homes at this point.

I thank the Minister, Deputy Phil Hogan, and his Department. There are many people who have put a lot of work into this legislation and gone beyond the call of duty. I include the Minister and his staff in that regard. I also include the staff of the Pyrite Resolution Board who have done a great deal of work to date. I could not be happier for all those involved in Pyrite Action. What has occurred is an early Christmas present and I look forward to the first application being accepted in January.

**Deputy Alan Farrell:** I thank the Minister for putting this Bill on the legislative agenda. It follows a very long delay, not one for which the Government or my party is responsible, although there was a slight delay in bringing the legislation before us.

18 December 2013

This matter was first brought to my attention in 2007. In that year I had an unwelcome caller at my door to tell me that my estate, Drynam Hall in Swords, was very much affected. I learned that 12,500 houses - more than the 10,000 estimated by Deputy Barry Cowen - were affected to the extent that remediation was required. The previous Administration not only ignored this issue and the technical guidance document amendment suggested by the building control unit in Fingal County Council but it also even failed to acknowledge receipt of the letter I sent four times as Mayor of Fingal. I sent a letter four times to the then Minister for the Environment, Heritage and Local Government and on four occasions failed to even receive an acknowledgement from his office such was his level of interest and that of the Department in the issue. To suggest this is a very significant day, as Deputy Helen McEntee has done, is an understatement.

I pay a particular tribute to a great number of Deputies. My constituency colleague opposite and a great number of other colleagues across all parties have contributed significantly to this discussion to put in place a remediation process for the tens of thousands of others who, like me, are affected by this issue. I include Deputy Dessie Ellis and others in Sinn Féin and other parties. What has been achieved is not the legacy of one individual, although I should say in the presence of Deputy Helen McEntee that her late father, Shane McEntee, played a very significant role in bringing the Bill to the House. I cannot think of a more fitting tribute to him on a day close to his birthday than raising this issue in the Dáil and for Deputy Helen McEntee to speak to us today about it. I commend her for doing so.

Deputy Dessie Ellis spoke about dream homes crumbling. I had this experience, as I know the Deputy knows. In 2005, arguably at the peak of the boom, I bought my home for more than €300,000 only to find that, by 2008, it was valueless. Owing to the actions of some of the developers and builders whom the Deputy acknowledged wished to do something about the issue rather than run away from it, as so many have and which is why the Bill is required in the first place, my home and thousands of others in Fingal, County Meath, County Louth and other areas have been subject to remediation.

As this is a Second Stage debate, I will use my time carefully. I am not speaking from notes but speak because I am an affected person who has lived through the problem for the past eight years. I speak from the heart and on behalf of so many of my neighbours, friends, constituents and fellow citizens across Leinster who have been affected by this issue through no fault of their own. As Deputy Dessie Ellis correctly outlined, they bought a dream home or place where they could hang their hat, have a family, move on with their lives, pay off their mortgage and contribute to society, but, unfortunately, because of the greed and - I dare say - borderline corruption of others, so many have been left without recourse to justice. Developers have gone out of business and liquidators have been unable to provide any funding towards the remediation of houses across Leinster. Since many have been left with absolutely no recourse to remediation, I acknowledge the Minister's suggestion that further funding will be made available next year and the year after for remediation schemes, acknowledging the great gaps in which one could put one's hand such as those described by Deputy Helen McEntee. I noted these gaps in my dwelling and they were evident in thousands of others.

I acknowledge the work of the Department, the Minister, in particular, and our deceased friend and colleague, the late Minister of State Shane McEntee. I acknowledge also the work of my colleagues opposite and many members of the Government parties who have contributed to the Bill which I commend to the House.

**Deputy Mick Wallace:** I am sharing time with Deputy Joe Higgins.

It is definitely to be welcomed that the State is doing something about pyrite problems. However, given what has occurred and the position the Government took before now, it is hard to credit that it has not been able to get the private sector to take responsibility. It is a little frightening.

**Deputy Phil Hogan:** Perhaps the Deputy might help.

**Deputy Mick Wallace:** I would love to.

**Deputy Phil Hogan:** The people in question are the Deputy's colleagues.

**Deputy Mick Wallace:** I will not defend the ethics of the construction industry. Of course, there were plenty of people who behaved properly, but in general, the sector left too much to be desired. There was no chance it would give us any money if it could get away with it. The same goes for the banks and the insurance bodies.

Bearing in mind that it has been possible for those concerned to wash their hands of the matter, it is blatantly obvious that the stone delivered to the sites was not fit for purpose. The quarries have a responsibility. It is a big problem if responsibility cannot be pinned on them.

What is insurance? Is it available at all when trouble hits the fan? If the insurance companies can get away without taking any responsibility in this regard, what will be the status of insurance companies under the new building regulations? If someone builds an apartment complex with 100 units and it turns out to be a disaster such as Priory Hall, will there be access to the individuals who worked on the project in the insurance company? We need to examine this issue before the problem recurs. If those concerned can get away with this, I fear they will get away with just about anything.

During the statements today on the European Council meeting I was talking about the imminent transatlantic trade and investment partnership. I assure the House that if the European Union and its member states sign up to it, laws helping large corporations and businesses will be enhanced and the possibility of holding them and the potential to hold them to account will be reduced. This will be at the expense of the citizen. Does the Minister not believe this is a massive area that will be very significant in terms of the new building regulations? Some structure must be put in place. I do not know whether a universal insurance scheme is practical or how it could be operated. There is no point in people hiring insured professionals when, if something goes wrong, there is no cover to deal with the problem. That is what happened in the pyrite situation. The quarries had insurance - they were not allowed to operate without it. Why is that insurance not being called upon? The banks signed off on these houses. They employed professionals to inspect the houses. They had a responsibility to check every aspect of the construction of a house before parting with money for it. The professionals were employed so that the banks, when giving out loans for €300,000 or more for a house, could be happy that things had been done right. Even though they might not have been very *au fait* with pyrite, they still have a responsibility because they loaned money to people on the back of professional advice which they assumed was sound. The people hired to give that professional advice would not have been hired by the bank unless they had insurance. Why can that insurance not be tapped into?

Does the Minister agree that insurance is going to be a major issue in the context of the new building regulations? As currently drafted, the regulations provide that the architect is the person of last resort in terms of signing off on projects. Does the Minister think that architects will

be able to get insurance against the possibility of having to foot the bill for faulty construction? I am not so sure that will be possible.

**Deputy Joe Higgins:** On 25 May 2011, a full two and a half years ago, I raised the pyrite crisis with the Taoiseach during Leader's Questions, with the Minister for the Environment, Community and Local Government sitting beside him. At that stage, the Government was, to put it mildly, not anxious to get involved and was attempting to adopt a hands-off approach to the problem, hoping that some other agencies would sort it out. During that exchange in the House I called for a task force to be set up immediately and for a remediation scheme to be put in place but the Government pointedly refused to take that course of action. Subsequently that has been done but it should not have taken two and a half years to get to this point, considering the enormous suffering that people are enduring, with the acute anxiety and distress of watching their homes disintegrate around them because of pyrite heave. It should have been the subject of immediate and emergency action rather than the long, drawn-out process we have seen.

We are dealing here with the poisonous legacy of the buccaneering speculators and profiteers in the construction industry - in the housing sector in particular - in the course of the property bubble. There was criminal negligence in terms of the quality of homes produced by a range of developers and builders, as we have seen to such enormous cost to ordinary people. Profits came first and safety and other standards a very poor second. The Minister keeps repeating that the State has no responsibility for this situation, which is absolutely untenable. The question is - where was the oversight in regard to all of these issues and the huge problems that have emerged? On the issue of fire hazards for example, Priory Hall and a number of other housing projects which have come to public attention are only a very small percentage of the number of potential fire traps that were built in this State. Where was the oversight by regulators, local authorities and so forth? The same question applies with regard to pyrite. The pyrite problem has been discussed and debated in construction and engineering literature for at least 30 years. Detailed reports were published 20 years ago on the problem as it emerged in parts of Britain. It is quite clear that since pyrite can have such a catastrophic effect there should have been a process of testing for the iron sulphide which causes pyrite heave.

While the State bears a big responsibility in this, undoubtedly the main culprits are those in the construction industry who cut corners and did not adhere to proper standards. I support this Bill in so far as it goes but it is far too restrictive. It does not in any way recognise the extent of the problem. To talk about 1,000 homes as if that was the limit of the problem is to fail to face reality. Unfortunately, the number of homes affected is far greater than that and will be found to be so. A lot more will have to be done. In 2011 I called for upfront emergency funding to be provided by the State so that people would have not to wait for years for cases to go through courts to force the speculators and developers to provide remediation funds. However, I said that the funds provided by the State must be clawed back very quickly from those who carried the main responsibility for this situation. I believe that the major players in the construction and quarrying industries and the developers who are responsible for this problem must be levied so that the tax payer is not left to carry yet another can, on top of the billions they are carrying for the speculation of the banks in the self same industry in the course of the property bubble.

**Deputy Thomas P. Broughan:** The Bill before us has major implications for the thousands of home owners who have been or may be affected by pyrite damage. I must say at the outset that I am disappointed by the amount of time allocated to debate the Bill in the House, particularly that allocated for the next stage. The approach taken by the Government to the ordering of Dáil business this week is pretty shocking. As I said to the Tánaiste last week, we are rushing

through three major Bills this week, any one of which would have formed the business of an entire week in previous Dáil terms.

I welcome the fact that legislation dealing with the pyrite issue is finally before us. The problem of homes affected by pyrite first came to my attention in the Drynam Hall estate in Kinsealy in the summer of 2007, when the parents of a young householder in the estate alerted me to the shocking news that her home was infested with pyrite. The Minister of State will well remember that when the 30th Dáil resumed, I immediately raised the matter with the then Minister for the Environment, Heritage and Local Government, John Gormley, and the Taoiseach, Bertie Ahern, who totally washed their hands of this outrageous fraud on young home owners and mortgage payers. Unfortunately, a few months later the first shocking reports came through of possible pyrite damage in the massive Clongriffin estate in the north fringe in my constituency. From that time I have raised the matter on literally hundreds of occasions in this House, particularly on behalf of the householders affected by pyrite damage in my constituency. The further atrociously long delay of nearly three years by the Minister for the Environment, Community and Local Government, Deputy Hogan, in getting his act together to tackle the pyrite problem has meant that home owners affected by pyrite damage have been languishing in their homes for years with little or no hope in sight of a resolution to the damage done to their homes.

I welcomed the recent announcement by the Minister, Deputy Hogan, that €10 million of initial funding was to be allocated by the State to the pyrite remediation scheme. However, following the announcement I expressed my strong concerns that the fund was to be restricted to homes with pyrite damage in the so called red category. More important, I expressed even stronger concern that the entire funding for pyrite remediation was to come from the Exchequer. I know the Acting Chairman, Deputy Mathews, is interested in the phenomenon. One could ask what happened to the pyrite levy which was a key recommendation contained in the pyrite panel report of 2012. In addition, what happened to the proposal that people responsible for inflicting damage on others would be made accountable for their wrongdoing and gross carelessness? It is welcome that some home owners will benefit from vital assistance in carrying out remedial works to their homes in instances of significant pyritic damage. It is also welcome that the Pyrite Resolution Board will be put on a statutory footing. However, this very belated Bill is a poor enough attempt by the Minister, Deputy Hogan, to address the pyrite debacle. The Minister has also missed an opportunity to prevent a disaster of this kind recurring by not including provision in the Bill for the inspection of quarries to determine the presence of pyrite in infill. Furthermore, the apparent problems in the building regulations due to be brought into effect by the Minister in the coming weeks are not being addressed in the Bill or elsewhere. There seems to be a complete determination by the State and its agencies not to take responsibility for the building industry and not to make it responsible to the State for the work it does in spite of the huge commitments made by young families.

In moving to the content of the Bill, I wish to highlight my major concern that there is not even a hint of those responsible for pyrite being held to account. Over the past six or seven years the key questions my Dublin Bay North constituents have continually asked are twofold. First, whether those responsible for the egregiously careless invigilation of construction suppliers and grossly deficient building works will be held to account for their actions. Second, whether those responsible will be made to pay for the grave financial damage done to citizens and householders. I note that section 7 provides that grants from the Housing Agency, subject to sanction by the Minister for Public Expenditure and Reform, will be used to implement the pyrite remediation scheme and ancillary matters. The implications of the section are significant.

The Minister has apparently done a U-turn on his view that a pyrite levy was to be imposed on the quarrying and construction industries. I note in the wake of the publication of the pyrite panel report in 2012 that the Minister said a pyrite levy would be on the table. Throughout the pyrite panel's considerations, there were constant reports and spin from Government that the building, construction supply and insurance industries and other professions with a direct responsibility, including banks, would be levied with the bill for the repair of the damage. In the autumn legislative programme, a Pyrite Levy Bill was No. 10 on section A of the programme. The purpose of the Bill as outlined in the programme was "to provide for the imposition of levies on the quarrying and insurance sectors to fund a remediation scheme for certain pyrite damaged dwellings and to establish the Pyrite Resolution Board on a statutory footing".

The decision to drop the levy has significant implications for the public purse and it means the State will carry the can ultimately for pyrite damage. As more and more estates in north and west Dublin, Meath and other counties were reported to have pyrite damage from 2007 onwards, I was given an astonishing estimate by some builders that the number of houses requiring remediation would be up to 60,000 housing units with a rebuilding cost of up to €20 billion. I accept the pyrite panel estimate was approximately 12,000 units but even if there are, for example, 20,000 pyrite-damaged housing units, the ultimate cost could be at least €1 billion. The pyrites disaster was second only to the banking disaster and had we not had the collapse of banking it would be the greatest scandal of modern Irish history. Of even more concern is the very real fear that if the funding for the scheme is subject to sanction by the Minister for Public Expenditure and Reform, it could be restricted to the most severe cases only and many others with varying degrees of pyrite damage would be left without recourse to assistance in carrying out remedial works. I will table an amendment on Committee Stage tomorrow, which I hope will not be ruled out of order, to call for the imposition of a pyrite levy to be included in the Bill.

In a similar vein, I am most concerned that the Bill does not provide a mechanism to address future potential construction incidents similar to the pyrite disaster. By not providing, for example, for the inspection of quarries, the Bill is merely responsive to the current problem without seeking ways to improve the quarrying and construction supply industries. I note that reference is made in the Bill to the NSAI standards on pyrite. However, it would have been far more useful to have also included provision in the Bill for inspections to determine the presence in infill of pyrite or any other problem stone, and to make arrangements for the suspension of quarrying activity in the event of pyrite being found. Approximately 18 months ago planning staff in Fingal County Council carried out the first systematic review of quarrying in the county on its seven major quarries in accordance with the Planning Act 2000.

I strongly welcome the placement of the Pyrite Resolution Board on a statutory footing. The establishment of the board was another key component of the recommendations of the pyrite panel report 2012. Part 2 addresses the necessary legislative provisions for establishing the board. I note that the board is already in place on a *de facto* basis.

I further welcome section 13 which sets out the arrangements for the board in establishing the pyrite remediation scheme. However, I note that section 13(1) makes reference to the draft scheme having to be prepared by the board and sent to the Minister for his approval "as soon as may be after the establishment day". I have tabled an amendment seeking that a limit would be put in place so that the draft scheme would have to be prepared within six months. We have waited long enough for the pyrite remediation scheme to be put on a statutory basis and I would be fearful that without an express time limit in place the scheme could be delayed further. I am opposed to the guillotining of the three historic and vital Bills being considered this week in the

House but I did not oppose the Order of Business – neither did the Acting Chairman, Deputy Mathews - on the Pyrite Resolution Bill because we have waited long enough for action.

Section 4 refers to “significant pyritic damage”. I note that section 4(a) defines significant pyritic damage as follows: “(i) damage condition rating of 1 (with progression), consistent with pyritic heave, or (ii) a damage condition rating of 2, consistent with pyritic heave, in each case established on foot of a building condition assessment carried out by a competent person...”. I am concerned that this definition appears to restrict the applicability of the pyrite remediation scheme to the most severe cases of pyrite damage. However, many hundreds if not thousands of households have been affected by significant pyrite damage, albeit not all at the upper end of the scale to date.

Members are aware that Homebond stopped compensating home owners for pyrite damage in August 2011. However, I understand Premier Guarantee continues to process claims for pyritic damage. HomeBond’s suspension of processing pyrite claims means that a large number of home owners are not receiving any remediation for pyrite damage. The definition of significant pyritic damage in section 4 could, in practice, be rather restrictive and could therefore potentially exclude thousands of home owners from the scope of the pyrite remediation scheme.

I wish to raise some concerns about the new provision contained in the Bill as passed by the Seanad. Section 19 provides for the deferral of decisions of the board on applications under the pyrite remediation scheme in circumstances where “a builder or developer of a dwelling has instituted or invoked dispute resolution procedures arising out of or in connection with pyritic heave affecting a dwelling owned by an applicant...”. I assume the amendment has been introduced on the basis of the need to allow the legal process to conclude before a decision would be made on an application for pyrite remediation to the board. However, one could ask what happens to the home owner in this instance. I note a home owner may make a submission seeking that the decision not be deferred. However, the decision on whether to defer will be at the discretion of the board. I have concerns that, in effect, the legal process could be used to deny assistance to home owners under the scheme, which would be a very negative development.

While I warmly welcome the legislation to finally establish the Pyrite Resolution Board, I must express my opposition to the approach taken by the Government to many aspects of the legislation. The absence of a pyrite levy or any provision to put a levy in place is a shocking indictment of the Government and its lack of will or ability to tackle the wrongdoers and help out ordinary citizens who are really struggling. The Bill protects big business, the flotilla of developers and their out-of-control friends in the banking industry – whom the Acting Chairman, Deputy Mathews, has so eloquently spoken about so often in the House - from their obligations. It also absolves the totally quiescent previous Government of Fianna Fáil and the Green Party. The behaviour of the Green Party on the matter was among the most disgraceful I have witnessed in this House. I refer to the then Minister for the Environment, Heritage and Local Government, Mr. Gormley, and his ministerial colleague, the current leader of the Green Party – or the remaining tiny faction of the party – the former Deputy, Mr. Ryan. They were in power in this House for three and a half years and did not lift a finger to help so many hard-pressed householders. I welcome the fact that at long last we are taking action on the matter. I note the presence of Deputy McEntee, whose father played a tremendous role in pursuing the matter vigorously on behalf of those affected in County Meath and north Dublin. It is fitting this legislation is now in place. The Minister should have kept his promise on the pyrite levy, however.

**Deputy Terence Flanagan:** I welcome the opportunity to contribute to the debate on this

Bill. I share the constituency of Dublin Bay North with Deputy Broughan who eloquently laid out the issues in question. Both of us raised this matter with the Minister, Deputy Phil Hogan, and his predecessor from the Green Party for some time. The Bill is a major step in the right direction in helping residents of pyrite-affected homes.

When in opposition, I, along with the now Minister, Deputy Hogan, the late Shane McEntee and the now Taoiseach, Deputy Kenny, visited some of the residents affected in the Santry area. It is one of the legacy issues of the rapid construction of homes throughout Dublin and other areas during the Celtic tiger, a sign of the madness that prevailed during the building boom.

The Bill provides for the establishment of the pyrite resolution board which will be responsible for implementing the pyrite remediation scheme. The initial funding of €10 million is quite small, however, for what will be required. The Government will provide up to €50 million to cater for an expected 1,000 affected homes. This problem, however, might be bigger than that. My colleague in the Seanad, Senator Fidelma Healy Eames, has claimed over 10,000 homes could be affected with total costs coming to €460 million. Will the Minister give some clarity as to what the final costs will be?

It must be remembered the consumer is the innocent party in all of this. Home owners discovered the HomeBond guarantee is sadly not worth the paper on which it is written, with those affected by pyrite left out to dry. I have seen at first hand the difficulties caused to relationships by this issue. On top of that, many of the home owners have to deal with negative equity and mortgage arrears. I am glad the pyrite resolution board will do what it says on the tin.

Like Deputy Broughan, I am concerned by the substantial costs for the taxpayer if a pyrite levy is not imposed on the industry which allowed this to develop. A standard testing method must be introduced as there are varying costs associated with the various testing methods currently available. While the Government claims there are only 1,000 homes affected, up to 10,300 could be affected and it will not be for many years that their problems will emerge.

The repair work to affected homes is very intrusive and home owners have to leave their properties during the remediation. It has been claimed that the costs of flooring will not be covered under this Bill. Will the Minister clarify this? I am concerned that some affected home owners cannot get home insurance as a consequence of informing insurance companies of their pyrite problems. While I know the Minister does not have regulatory control in this area, I hope the Financial Services Ombudsman can investigate this issue to ensure further obstacles are not put in the way of home owners once their homes have been repaired. Will the Minister confirm the date of the establishment of the pyrite resolution board?

There were several high profile court cases in this whole matter such as Mennolly Homes against Irish Asphalt and the Lagan Group which ran for 159 days. It was one of the most expensive legal cases in the State's history. The moneys spent on legal costs could mean there is less to help the home owners badly affected. Credit must be given to Mennolly Homes which was the first construction company to publicly admit to having a problem with some of its homes, not like other developers and builders who went to ground and disappeared through bankruptcy.

Deputy Ellis raised the issue of Dublin City Council having to remedy local authority builds in Ballymun. It had to take Irish Asphalt to the High Court where, after 50 days, the judge found against the latter. This, however, will be appealed to the Supreme Court which causes

more concern and stress for the residents affected.

I welcome the Bill. All affected home owners should get the necessary remediation and should not find themselves with no financial support to put right a problem which was no fault of their own. The Government also had to deal with the other issue of Priory Hall, another example of what went wrong during the Celtic tiger years. I am glad there is some white smoke in sight for home owners affected by faulty construction in the boom. The sooner the Minister gets the pyrite resolution board established and the remediation works completed, the better.

**Acting Chairman (Deputy Peter Mathews):** It looks like we have arrived at a point where the Minister of State can make her concluding remarks.

**Deputy Jan O'Sullivan:** I know that the Minister was hoping to get back in time to reply to the debate, so I am not sure if it is in order for me to share my time with him if he gets back to the Chamber.

**Acting Chairman (Deputy Peter Mathews):** That is fine. I am advised that the Minister has been given a ten minute slot, so you can open that slot on his behalf.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** On behalf of the Minister, I thank everybody who has participated in the debate. There has been a wide and strong interest in this issue, particularly from Deputies on all sides of the House who know from their constituents of the awful trauma that has arisen for people who suffered from pyrite in their homes. I know that this problem has been continuing for a number of years. I also wish to acknowledge the difficulties for the householders themselves and the extremely stressful situation they have had to endure over a long period of time. Deputies have also acknowledged that the primary responsibility for this problem does not rest with any Government, but with the industry. It is very much related to a period in the history of our country when the activities that went on in the construction industry left an awful lot to be desired. We have many legacy issues now, including pyrite, Priory Hall and unfinished estates, all of which we are addressing in one way or another. The Minister has been able to announce Government decisions on Priory Hall and on the pyrite issue, and that is the reason for this Bill today. Under my responsibility in the Department, we are working through the issues of unfinished housing estates, and we are making progress in that respect as well.

It has been acknowledged in the debate that no action was taken up until the time this Government took over. It has been a slow process. Everybody acknowledges the complexity of it, the fact that there are issues involved, and the fact that there were different bodies that had to be engaged with. I know officials from our own Department put in much work to engage with the complexities of the issue, consulting with a variety of interests. Deputy Flanagan just referred to the insurance industry, and that industry's response proved to be very disappointing. There were legal issues that had to be addressed. However, we are in a position today where we have a Bill before us that addresses the problem and that has Government support. I welcome the fact that Members are very supportive of the issue, although I understand that they will want to tease out certain issues on Committee Stage, which is coming in the very near future.

The people living in houses affected by pyrite want to see a practical resolution to their problems, so that they could back to living a normal life that the rest of us assume we can have in our homes that have not been affected by pyrite or by any other of the legacy issues of the

Celtic tiger, and that is the intention of this legislation and the Government. Putting this legislation on the Statute Book will allow us to implement the recommendations that were made, to set up the board and establish the process that continues from there. As we are able to bring the legislation forward, we will be able to move forward with the follow up from that.

A number of questions were asked about the timeframe and so on. I am sure that the Minister will address those in the debate on Committee Stage. It is also important to point out there is not always an immediate and obvious solution to problems in cases like this. It first needed a focused examination, followed by focused action on behalf of the Government. That will now be put in place.

I would particularly like to pay tribute to Deputies and former Deputies. I acknowledge the presence of Deputy Helen McEntee here. I know that her father pressed very strongly on the Government the need to resolve this issue, and I think it is appropriate that she is here today for this Bill to see that progress has been made. I would also like to acknowledge the role that has been played by other bodies that engaged in the process. I hope that we will now see progress in the very near future that will address the difficult problems that people have had to tolerate in their homes.

**Minister for the Environment, Community and Local Government (Deputy Phil Hogan):** I want thank the Deputies for their contributions to the debate here this evening on this important Bill. I would also like to acknowledge the work and support of Deputies from all sides in House in trying to find a resolution to this appalling problem. Deputies have also mentioned the very important contribution of my friend and colleague, the late Deputy Shane McEntee, made to providing significant support and encouragement, and ultimately contributing enormously to bringing stakeholders together and finding a solution to this issue.

Deputy Cowen and others have suggested that the scale of the problem is understated, and a figure of 10,300 has been mentioned as being the number of dwellings that may be affected. While this figure is consistent with the pyrite report, it cannot be taken in isolation and must be seen in the context of the other figures in the report. In compiling its report, the independent pyrite panel included all dwellings in estates which were identified as having a potential risk to pyrite, irrespective of whether there was any evidence of pyritic damage or not. For example, in 23 estates with 3,250 ground floor dwellings, there was little or no evidence of pyritic damage, but nonetheless those estates were included to ensure that the figures for potential exposure took account of all possible situations.

It is certainly the case that not all dwellings in the estates identified to the pyrite panel as having a potential risk of pyrite problems will manifest pyritic heave, leading to significant damage, and the reasons for this are detailed in the report. They include hardcore material coming from multiple sources, different builders being involved in many of the estates and the fact that some estates were built over a period of time. At the time the pyrite panel undertook its study in March 2012, approximately 1,100 dwellings were remediated or in the course of remediation. It is likely this figure has increased since then. The figure of 1,000 dwellings which are believed to be currently in need of repair is supported by a number of positive indicators including the number of homeowners - approximately 850 - who have registered with the pyrite resolution board to receive an application when the scheme becomes operable, and also the number of homeowners who have applied for the exemption from the local property tax due to pyritic damage which I believe to be approximately 1,000. There is no evidence to support the contention that the figures are massively in excess of those. I was surprised that Deputy Cowen

mentioned a figure of 72,000 as a potential number of-----

**Deputy Thomas P. Broughan:** We heard 60,000.

**Deputy Phil Hogan:** I do not know from where these figures are being plucked-----

**Deputy Thomas P. Broughan:** From the lads who built them.

**Deputy Phil Hogan:** -----but I have commissioned a reputable, independent report to support what I am saying this evening.

The scheme is a targeted one to assist a restricted group of homeowners who have no other practicable options to access redress. It cannot be expanded to apply to all dwellings where there may be some minimal damage as well as to buildings other than domestic dwellings and to dwellings which have already been remediated. Mindful that the scheme is being funded from the Exchequer, we have to be realistic and understand that the scope of the scheme cannot be open ended. The funding available must be used judiciously to achieve the most efficient, cost effective and equitable outcomes. It is a scheme of last resort to repair homes affected by significant damage where the homeowner has no other practicable option for redress. The benchmark for inclusion in the pyrite remediation scheme is significant damage due to pyritic heave; this is defined as having a damage rating of 2 in accordance with the IS 398-1:2013.

I agree that those responsible should bear the costs and I have done everything possible legally to make sure that was the case. I engaged in protracted discussions with the stakeholders to try to broker a voluntary industry-led solution, and when I failed to get agreement from the parties involved I sought and received approval from the Government to impose levies on the quarrying and insurance sectors as a means of funding the scheme. However, there was a risk that if legally challenged, we would lose the case. It would take some time for the case to go before the courts and the home owners who are badly affected would be left for another protracted period.

**Deputy Thomas P. Broughan:** What about legislation in the public interest? The Minister could have done it.

**Deputy Phil Hogan:** There are constitutional issues on which the Attorney General must advise me. Deputy Broughan is an eminent lawyer.

**Deputy Thomas P. Broughan:** We did it with the banks.

**Deputy Phil Hogan:** There was an agreement with the banks. There is no agreement here.

**Deputy Thomas P. Broughan:** There was no agreement with the banks. We forced them.

**Deputy Phil Hogan:** Deputy Broughan has more legal advice at his disposal than the Attorney General, and I accept that he may have, but I have to go on the advice I get. The €10 million is initial funding with additional funding being allocated from the capital stimulus programme in early 2014 over a two year period. This scheme will be reviewed in 2015 and post-2015 funding requirements will be considered at that stage having regard to developments over the interim period. While it is not possible to confirm the number of dwellings that will require remediation after 2015, the considered view is that the numbers will be a small fraction of the number of dwellings identified in the pyrite report.

18 December 2013

I again thank Deputies and my officials for painstakingly seeking to improve the scheme over the last while. It is ironic that we are approving this scheme in the week that is in it, the first anniversary of the untimely death of the late Deputy Shane McEntee, to celebrate the great, Christian involvement he had with so many families over the years regarding this matter. I hope we will be in a position to conclude the legislation tomorrow and to end 2013 by giving hope to a considerable number of people with this scheme.

The €50 million we were expecting to receive from the financial institutions was a loan to be paid back by the levies we were imposing on the quarrying and construction sector. For legal and constitutional reasons there was a doubt about it being possible to implement that. I will take every opportunity I get to extract necessary financial support from any sector, quarrying, construction or insurance, based on the legal cases before the courts and an analysis of the outcome of those cases. I will seek redress from those sectors at the earliest opportunity.

Question put and agreed to.

**An Ceann Comhairle:** When is it proposed to take Committee Stage?

**Deputy Phil Hogan:** Tomorrow.

Committee Stage ordered for Thursday, 19 December 2013.

*Sitting suspended at 6.55 p.m. and resumed at 7.30 p.m.*

### **Planning and Development (Transparency and Consumer Confidence) Bill 2013: Second Stage (Resumed) [Private Members]**

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

**Deputy Dessie Ellis:** I dtús báire, ba mhaith liom tacaíocht a thabhairt don mBille seo. I commend Deputy Catherine Murphy on her hard work and determination in tackling a tricky subject that has troubled the State for many years. This is an imperfect Bill, but it is one that, if allowed to progress through the House, can be a positive step for planning law in the State. To have had a property boom so damaging and to have our countryside scattered with unfinished ghost estates indicates that there must be a problem with planning. The planning system as currently constituted has failed the people of the State and the residents of homes that should never have been allowed be built. Corruption and a lack of any desire to challenge the wisdom of developers has led us to this state. Hopefully, some good thinking such as that contained in this Bill will lead us part of the way towards a better future for planning here.

Today, we have heard again of some of the worst consequences of the failure of our planning system. According to the report Summary of Social Housing Assessments 2013, which was released today, there are more than 90,000 households on our local authority housing waiting lists. One in five of these have been on the list for at least five years and one in ten for at least seven years. I have dealt with families who have been waiting ten years or more. Under the previous points system in Dublin, some people were waiting so long that they dropped further down the list as family members who were children when the application was first submitted had moved out to their first homes, unable to deal with the bad, cramped conditions. Some 20% of applicants for housing are living with relatives. A colleague told me about a woman he was dealing with who was living in a household of 11 people and was sleeping on the couch with her

two young children. This is not unusual. I have encountered similar cases myself.

This is the legacy of bad planning and planning that is not in the public interest but that of private greed and power. In fact, it is a testament to how bad planning was in this country and how ingrained in the psyche of our political class it was that when the Labour Party and Fine Gael got into Government, their first proposal to solve the housing crisis was to attempt to carve a social housing system from the carcass of the Celtic tiger's unfinished and unoccupied estates. These are problems we must fix, not only with political resolve but also by empowering local authorities to tackle their own local housing needs. Some of the powers that are important for local authorities, such as the ability to raise revenue, were ripped out by an opportunist Fianna Fáil in 1977. Some capacity remains, but I fear this Bill could frustrate the ability of local authorities to do that in the best way possible for their areas.

The centralisation of the development levy and the introduction of a uniform rate seem sensible on the face of it. However, the reality is that levies need to be struck locally, because they are specific to areas. The same levy cannot work in Dublin as in Longford. This blanket approach, while clean and accessible in ways, would undermine local democracy and the knowledge of local representatives who have worked to develop local area plans with a focus on funding them through the levies. This is not a problem, however, that could not be overcome on some further stage of the Bill.

We also take issue with the Bill in regard to Part 9, which addresses Part 8 developments. This permission for people to oppose developments by councils will frustrate their ability to provide social housing and other essential public amenities, adding new levels of bureaucracy where none is needed. The scandal of local planning has not been in the provision of social housing or local amenities, but in the dirty deals that allowed developers to build whatever they wanted wherever they wanted, regardless of the need or suitability of the area or the planning. We have seen planning permission given for developments on flood plains and developments with no proper amenities or community facilities. We have seen thousands of apartments with not even a community hall, a school or any facility that could be used for meetings nearby.

Pelletstown has almost 4,000 apartments but no community facilities and few or no public amenities apart from a park and the local canal. An indication of how bad the planning for Pelletstown was is that it has a manually operated level crossing system. This should never have been permitted in such close proximity to 4,000 apartments and the resulting traffic. My area of Dublin North-West is littered with estates that have few or no public amenities.

I commend this Bill and call on the Government to allow it to pass Second Stage. I look forward to debating it in the future should this happen. I extend my respect to Deputy Catherine Murphy for her work on it.

**Deputy Brian Stanley:** Like the previous speaker, I commend Deputy Catherine Murphy on her introduction of this Bill. It is interesting that the Bill has come from an Independent Member of the Opposition.

The issue of planning affects all aspects of our lives, how and where we live, where we socialise and how we travel. This Bill attempts to address some of the damage done by previous Government policies and by developers during the boom and to address the legacy issues they left behind. Specifically, it attempts to deal with unfinished estates and to hold repeat offenders to account. In Laois, in my constituency, we have unfinished estates in Graiguecullen, Port-

laoise, Mountrath, Mountmellick and across to Portarlinton. We have them throughout the county. This needs to be addressed and we must never allow this to happen again.

We have seen major inquires find fault with politicians from all the major parties. Some former Deputies and Ministers were sent to jail as a result of these inquiries. However, unfortunately, the legacy and the damage done by bad planning and corruption remain for all to see. One only has to drive around some of the suburbs of this city or drive out to Kildare, Laois or other counties to see the rotten consequences of bad planning decisions. While the public inquires and those attending them grabbed the headlines, what has not grabbed the headlines is the long-term effect of the lack of policy. We see sprawling unfinished estates with no proper infrastructure - no lights, no footpaths, no proper water supply and no proper sewerage systems. In some areas, 50 or 60 houses are serviced by a single septic tank. This is the reality in many of our communities. It is a legacy of the economic boom.

Sinn Féin wants to see local authorities developing a planning process with citizen participation so that ordinary citizens and communities can formulate and partake in plans for sustainable economic and social development. This Bill is a step in the right direction and deserves the support of all parties in the House. However, we would suggest some changes, which Deputy Ellis mentioned. We feel that Part 4 of the Bill would centralise the setting of development levies, but we believe this power should be retained locally because of the different economic circumstances in each local area. These and other social circumstances and commercial factors affect development in the various areas in each county.

We have serious concerns about Part 9 of the Bill because of the implications for Part 8. One of the positive aspects of local government is that councillors can make decisions and be democratically held to account for projects of social and economic benefit such as roads, social housing or bridges. This is transparent at present and we must protect it. It has not been altered in proposals for reform of local government as far as I can see, and I scrutinised them very well. I welcome this and we might see how it can be developed further. We will oppose the section but this can be done on Committee Stage.

The Bill calls for the establishment of a State-wide planning compliance register which is a good idea. It would contain information relating to enforcement notices issued by local authorities. This would allow for greater transparency and access to information about past offences. The register would be accessible to the public and updated regularly, which is a very welcome provision. The Bill would allow for the information contained in the register to be used during the planning process. We all know of cases where this should have happened, and the case history of developers should have been used during the planning process. The Bill would introduce a new requirement to restrict severely the practice whereby some local authorities have attempted to extract development levies from those residents already being peeled for an overpriced mortgage on an overpriced house. Approximately a year ago there was a terrible case in County Wicklow. This is an excellent provision in the Bill and I welcome it. It would be great if we could get it over the line.

The Bill is a serious attempt to address head on many of the problems in our planning system. This is solid legislation. It is almost automatic that the Government and Opposition oppose each other's proposals although I have supported some of the Government's measures, including parts of the local government Bill. This is an opportunity as this is a good Bill. Let it go to Committee Stage, take on the legislation and address the issues. It would be a great legacy for the Government and the Dáil if we introduced a Bill such as this.

**Acting Chairman (Deputy Joanna Tuffy):** The next speaker is Deputy John Deasy who will share time with Deputies Michelle Mulherin, Seán Kenny, Eamonn Maloney, Patrick O'Donovan and Anthony Lawlor.

**Deputy John Deasy:** As far as the general thrust of the Bill is concerned I thought when I read it that parts of it should and could be considered, and now I understand that, contrary to what the previous speaker stated, it will be accepted. My attention was drawn to the section dealing with repeat offenders and ensuring a person's history with planning compliance is taken into account by planning authorities when deciding on future planning permission. Local authority officials will claim they do this already but I am not entirely convinced. People can change company names or put a company in the name of a family member. I am of the opinion it would not do any harm if a guideline or regulation in this regard was adopted by the Department and sent to local authorities. It is not the only section of the Bill which has merit in my opinion. I am glad the Government will accept it.

What is not in the Bill, and might in practical terms be impossible to include in it, is a provision to provide for additional scrutiny and comprehensive oversight of the individuals responsible for planning decisions in local authorities beyond the existing codes of conduct. I have experience in this area. For me it is still an extremely relevant issue, and something in which I became involved when I was a town councillor and local authority member in 1999 and I am still involved in it. Over the past 20 years there has been widespread disregard for the planning laws and regulations by planning staff and officials in Waterford County Council and other local authorities throughout the country. In Waterford County Council it had its origins in the 1970s, with officials in the engineering office doing drawings for the public while at the same time adjudicating on the actual planning permission for the same people. Some have stated they were only providing a service, and this might be so, but it has evolved into a cottage industry with officials and draftsmen operating in this manner for years. By the mid-1980s some of these individuals working in the local authority were randomly contacting members of the public informing them their quarry or business required planning permission and then offering to draw up the necessary plans for a fee which was often very substantial. The bonus was planning permission would be guaranteed. This behaviour continued for years with the same people doing very nicely providing this so-called service to the public. The enormous conflicts of interest which arose were by and large ignored by senior officials and local authority members not only in Waterford but throughout the country.

Getting away from Waterford County Council, when the Celtic tiger years hit we know in the case of a few individuals in local authorities throughout the country there was wholesale and large scale corruption. In some cases the individuals involved have been charged, files have been prepared for the DPP and there have been trials, but not too many officials have been convicted. The main problem which arose in the 1990s and early 2000s was that in some cases planners went from dealing with one-off housing to dealing with developments worth tens of millions of euro. In many cases the individuals involved were completely unsuited character-wise to be given this level of responsibility and power and this is the crux of it; too much power and control of wealth was in the hands of the wrong people without adequate oversight. It is worth reminding people that today the OECD stated it has serious concerns because Ireland has not prosecuted a single foreign bribery case in the 12 years since its foreign bribery clause came into force.

The alarm bells should have gone off when engineers who dealt with planning were openly doing nixers for private construction companies and the very same people were dealing with

the companies' planning applications. This was my experience. For some reason the prevailing view among some senior local authority officials and Department officials was that public servants would never be tempted by bribes and were not susceptible to this type of corruption. We now know differently. We know some of them did take bribes and were corrupt. It probably did not help that the Garda Síochána was, until recently, completely ill-prepared to deal with this type of white-collar crime. This has improved slightly over the past ten years but it still leaves something to be desired.

As far as the Bill is concerned there are elements of it which should and, now I understand will, be accepted by the Government. My question for the Department officials and Ministers who police local authority officials is whether they have put in place the necessary safeguards at local level to prevent people who inherited positions of huge influence and power from acting contrary to the planning laws and the criminal code of the country. I am still not sure the answer is "Yes". One thing we can be sure of is the same temptations will arise again in the future.

**Deputy Michelle Mulherin:** I welcome the opportunity to speak in the debate, particularly on the thrust of the Bill presented by Deputy Catherine Murphy where we get to examine and elucidate upon shortcomings and lessons we can learn from the history of our planning code. We could change and work on a number of areas and I have mentioned one of these to the Minister of State, which is developing and putting in place national guidelines on community gain with regard to energy projects, whereby a statutory policy would be put in place placing an obligation on wind farm, electricity transmission developers and any other energy project developers to make a financial or other contribution to the economic, environmental or social well-being of the community where the power lines or wind turbines will be located. This would be a payment or benefit in kind to local communities in addition to rent to individual landowners and development contributions and commercial rates which are payable to local authorities at present. The problem is that there is a great deal of resentment within local communities that are being asked to take on the burden of the infrastructure, whether it is a wind turbine or whatever else, in the national interest. If we are seriously asking people to do that, we need to have a national debate about it. However, in the case of electrical transmission lines, a landowner who may not live near the line is compensated while somebody living in a house not far from the line is not. That is the current position and it is not fair. We must strike the correct balance. I am not commenting on the technology or where these lines are erected. The requirement for a wind farm developer to contribute to a community fund is *ad hoc* and voluntary, and requests by local authorities are not enforceable. We need a national policy through our planning code to inform local authorities. While some developers make contributions, there is no uniformity nationally as to what communities in which wind farms are built might receive. One could be lucky, depending on the developer. This often comprises a private deal between the developer and members of the community and, therefore, it is not transparent.

There also needs to be transparency about how the funds are administered, who can access them within the community and under what criteria. In my county, Mayo County Council has published a draft document setting out rates of compensation it recommends for the benefit of local communities, but it is unenforceable as it does not have a statutory basis. This is causing problems with some energy projects. In one case, a wind farm developer is offering less than the amount envisaged by the county council, which can do nothing about this. We need to have a conversation about what communities gain in these circumstances and how investment is generated nationally to build infrastructure.

Will the Minister of State, in conjunction with the Minister for Communications, Energy and

Natural Resources, examine the possibility of providing cheaper electricity to households in the vicinity of transmission lines and wind farms? Communities could potentially take a stake in a wind farm and receive an annual income from a particular wind turbine. The more electricity generated by the wind farm, therefore, the more income the community would receive for projects in the area. Such guidelines should be developed in consultation with all stakeholders, including wind farm and electricity grid developers. Many projects are being brought to planning stage and we must acknowledge the imposition of infrastructure to develop and expand a modern economy and pay attention to the people who are being asked to cope with this. Every aspect of this process must be examined. It is generally accepted that the greatest challenge to the development of energy projects is community acceptance, and this is the number one issue to be addressed. It must be recognised that some communities carry more of the burden in the context of this infrastructure, and this should be acknowledged in national planning guidelines in the context of community gain.

I refer to the time taken by An Bord Pleanála to deal with planning appeals. The statutory period is four months, but this can be extended. This is bizarre and difficult, particularly for commercial planning applicants for whom time is of the essence. This continues to happen, despite the reduction in the number of appeals being processed by An Bord Pleanála. If we are to be businesslike, this must be addressed.

In addition, I refer to the extent to which the board moves the goalposts on appeal from considering the application before it to redesigning the scheme. It has been suggested to me that this is on account of the number of architects the board has. For example, when planning permission is sought for a housing scheme, the board liaises directly with the developer to change the design and, therefore, this removes from consideration what was initially before the local planning authority.

**Deputy Seán Kenny:** I welcome Deputy Murphy's Bill, which contains positive measures to deal with the planning process and which aims to make the process more transparent, something I fully support. The Government has inherited many legacy planning issues arising from bad planning decisions, poor planning enforcement, lack of building control oversight and the light-touch regulation that was part of the property bubble, which has left a generation of our citizens in negative equity. Priory Hall and the Dublin north fringe are in my constituency, and we are at the epicentre of bad planning debacles in Dublin. However, the Government has provided solutions to the residents of Priory Hall, which are in train, and it has also provided solutions to those affected by the pyrite problem, which are being progressed. The Government is cleaning up the mess left behind by the alliance of Fianna Fáil, builders and bankers, and it is also dealing with the legacy of unfinished estates.

These approaches are dealing with problems that should not have been allowed to occur. That they did demonstrates that the planning system and the legislation underpinning it was not fit for purpose. As has been indicated on a number of occasions by the Minister of State and the Minister, a commitment has been given to review the Planning and Development Acts and a new planning Bill will be introduced in 2014, primarily to implement the recommendations of the planning tribunal, which I very much welcome. I was a councillor in Dublin during the period covered by the tribunal, when so much abuse of the planning system was perpetrated, particularly in north County Dublin. The modules relating to Baldoyle and Cloghran-Cargobridge in the tribunal clearly demonstrated the level of corruption at the time and names the councillors who were in receipt of corrupt payments.

A number of outstanding issues in the Mahon report are relevant to this legislation. When the report was debated in the House last year, the Carrickmines module was not included because a court case was pending. The case subsequently collapsed last summer when the main witness became ill and it would be appropriate to debate that module now following the publication of that final chapter. I ask the Minister of State to arrange that.

I refer to a number of sections in the Bill. Section 6 proposes that planning permissions be fully compliant with local area plans, and there is merit in this, but care needs to be taken that such a provision does not lead to undue inflexibility or rigidity in the system. The proposals in sections 8 to 10, inclusive, to extend the duration of planning permission require that applications for extensions of permission must comply with the requirements of newspaper notices, site notices and all the other public consultation requirements of the Aarhus Convention. This makes sense and I support that. I also support a review of section 180A, which requires the Minister for the Environment, Community and Local Government to make regulations providing for the phased redemption of a bond or security which the planning authority may specify as a condition to be attached to a planning permission and the index-linking of such bonds or securities. As the Minister has said previously, this proposal is well motivated and is worthy of consideration. I am glad the Government will work with Deputy Murphy on this legislation and I commend her on the solid work she has done.

**Deputy Patrick O'Donovan:** I welcome the opportunity to contribute to the debate. I compliment Deputy Murphy on the Bill and I thank the Government for taking on its contents. I hope that as much as possible of the legislation can be incorporated into the new planning and development Bill when it comes before the House next year. I acknowledge the presence of the Minister of State with responsibility for planning. Had many of the provisions been on the Statute Book during the 14 years prior to the Government's taking office, as referred to by Deputy Kenny, we could have been spared many of the problems that have emerged in towns, cities and rural communities throughout the country. It is a pity this was not the case.

*8 o'clock*

We are where we are and we need to fix the problems we face. Some of the provisions in this Bill will go a long way towards mitigating the problems.

The Bill makes reference to Part 8 planning and developments, whereby councils grant permission to themselves. At present there is no watchdog for compliance with planning permission where a local authority grants itself planning permission. Where a private citizen is granted planning permission, the council acts as enforcement officer but under Part 8 there is nobody to police local authorities, other than the Ombudsman. We have seen the problems that have arisen in local authority housing estates and buildings across the country.

I entirely agree with the indexation of bonds. Some of the bonds currently in place are, for want of a better word, Mickey Mouse in comparison to the scale of the devastation that certain builders left behind. The current scale of development is unsustainably low in terms of its contribution to GDP and the building industry needs to grow. However, while we may never return to the level of construction that obtained between 2004 and 2008, it is important that indexation be considered so that the scale of bonds reflects the costs associated with carrying out work.

The Minister of State's predecessor investigated the provisions of the Planning and Development (Amendment) Bill 2009 on extensions of planning permission. I refer specifically

to one-off rural houses. For economic reasons or because they are out of the country, people may seek to extend a perfectly good planning permission. If, for argument's sake, there is a policy change to the EPA's code of practice on propriety treatment systems for effluent or the flood risk management guidelines, the legislation does not provide for further information to be requested where an individual seeks to extend an existing permission. This is something the Minister of State might pursue. People who are in hard pressed economic circumstances find they cannot extend their planning permission if in the intervening period there was a change of policy in the local authority that made a material impact on the original permission. There should be an option for the authority to seek further information and put it up to the applicant to comply with the changes in the policy. If the applicant cannot comply, let him or her apply for new permission. The option should at least be made available for applicants to try to meet the new standard. Given that many of these people are in serious financial difficulties and may even have been required to leave the country, this would be a good thing.

I support the provision in the Bill for the registration of cowboys. A mechanism is needed to weed out those who constantly reinvent themselves under different trading names. The Construction Contracts Act 2013 goes some way towards dealing with cowboys but now that the economy is about to move in the right direction again we do not want those who landed us in the you know what to be able to apply for planning permission in a few months' time or to see another Galway tent opening for business. Local authorities should have access to a blacklist in order to prevent future misbehaviour.

Unfinished estates remain a major problem. The Government has made a start on this problem in recent weeks but an ongoing effort is required to address it. In the context of stimulus packages and capital investment, serious consideration should be given to providing a level of investment that will cover the work required. The really bad estates are those which are one quarter or one fifth completed. There is a sense of hopelessness among the people who live in these estates and they are appealing for the Government's assistance.

In my early days as a member of Limerick County Council, I made representations on behalf of people who were seeking planning permission for one-off rural housing. I do not make apologies for performing this role. If the planning system worked properly there would be no need for it. On one occasion I suggested to a planner that the design for a house was relatively nice. The planner told me that the difference between my opinion and hers was that her opinion was informed. Her opinion was not in fact informed because she was not an architect. There is a lack of knowledge of design in local authorities. The relative number of architects and planners in local authorities needs to be investigated. These people are passing judgment on one-off rural houses when they do not know from Adam whether they look good or conform to local aesthetics.

I welcome this Bill and wish Deputy Catherine Murphy well with it. I am glad the Government has accepted it in principle so that we can make further progress on this area. It is a pity such legislation was not in place five or six years ago because we would not have half of the you know what we are now facing.

**Deputy Anthony Lawlor:** I welcome Deputy Catherine Murphy's Bill. When the Deputy and I sat on Kildare County Council we dealt with a variety of development plans, material contraventions and planning issues as part of our work. One of the few times we differed was when I spoke passionately against Part V of the Planning and Development Act 2000, which I thought was a ridiculous provision. I was the only one of the Deputy's colleagues to vote against it. She

will be aware of my views on planning. This Bill contains a number of positive provisions on topics that we discussed at council level when we were making planning decisions.

I am particularly interested in the issue of compliance. I have strongly argued that developers who are not compliant should not be granted permission on future developments. The notion that an application should be considered on its merits means that the applicant is not considered. Many of the applicants with whom we currently have problems in County Kildare previously made multiple planning applications under different company names. This practice left behind a legacy of problems. On one occasion we dealt with a material contravention on the part of an applicant who never complied with planning conditions. When I went to examine the proposed development, I found that a huge road had been constructed without planning permission. When I highlighted the road to the officials, they asked me to show it to them on a map. We could have walked out of the venue where the meeting was held to observe the road. When I returned for another look at the road on the following morning, however, it had been covered by soil. This type of association between developers and officials at council level was happening in all areas of the country. I am delighted to say, however, this sort of behaviour has disappeared. We must ensure that planning is managed in a proper manner.

Deputy Catherine Murphy referred to development contributions. I would like councils to set out how they are going to spend development contributions, whether for one-off houses or housing developments. It makes a big difference for someone living in a rural area who is asked to make a contribution for a park in the middle of a town that he or she will not access. If more of that funding was going to be spent on their road locally, he or she could see a benefit in giving it. I was told today by somebody that such funding all goes into a hole and is distributed later. To my mind, that is wrong. There needs to be more accountability as to where this funding is going so that it is clearly identified at an early stage.

Deputy Catherine Murphy mentioned bonds. One of the problems in my county is that bonds are insufficient to cover the cost of the repairs that need to be done and in some cases, there were no bonds put in place at all. That shows a lack of determination by the local authority to follow up. When the planning permission is granted, another local authority section is involved and these sections seem to be working in silos rather than in conjunction with one another. As soon as the planning permission is granted, all the information should be transferred across to the next relevant official responsible, whether for bond collection or ensuring that the development goes ahead in the proper manner in accordance with the planning permission.

Lastly, I refer to Part V. The Minister will bring forward a planning Bill early in the new year and I hope he will give serious consideration in it to the removal of Part V of the planning Act. Part V was initially brought in to help sort out the social housing problems. It has been an unmitigated disaster. Between all the challenges that were taken initially and the number of houses that were built at the start, the number of houses the local authorities got was small. There are some local authorities in serious financial difficulties as a result of Part V of the planning Act. We should go back to looking at what we want. Part V should have provided for amenity grounds, school grounds and roads. Instead, we merely focused on housing. I hope the Minister will take that into consideration.

I welcome the Bill. I am delighted the Government is taking it on board and I look forward to further discussion when the planning Bill is brought forward later.

**An Leas-Cheann Comhairle:** Deputy Joan Collins is sharing with Deputies Halligan,

Luke 'Ming' Flanagan and Healy-Rae.

**Deputy Joan Collins:** It is natural, and should be the case, that many Deputies look back over the experience they gained and what they saw happen when they were members of local authorities.

I was elected in 2004. It was the end of the development process for the 2005-11 development plan for Dublin City Council, a process with which I was not familiar. It was alien to me, as a citizen, what that process was about. I looked at it and tried to gain experience in and knowledge of the matter at that end point of the plan coming into effect.

My first experience of the connection not only between the local authority officials and developers, but politicians right across the board - it was not only Fianna Fáil because other parties also were involved in this cosy relationship with developers - was when we were called to Crumlin village by the local area office which facilitated a meeting for a planner who was presenting a plan for that historic village in Dublin 12. The planner presented only a line of apartment blocks, six or seven storeys high, down along the village with a big square in the middle as an amenity for the community. It was not a practical plan. The planner himself admitted he had never been in Crumlin village and did not even know where it was before he drew up the plans, and that he was merely asked to produce a plan based on this. It became evident that this was a green light from the local authority to developers that this was the type of planning applications it was willing to take. This represented the acceptance of Dublin City Council for a certain type of planning in the area. Within a year, 24 planning applications were submitted for the Dublin 12 area, ranging from small ones to grand schemes. We saw our petrol stations close and residents had to drive miles to fill their cars with petrol. We saw our manufacturing base close- Unilever, Lyons Tea and the car plant on the Naas Road. We nearly lost the Naas Road shopping area, the Phoenix development, as well. We saw our supermarkets being earmarked by developers. The Bailey brothers came in and bought out Superquinn. They were trying to sell them off, build apartments, go down to Bank of Ireland and build a monstrosity in the area. With the community involved in the area, it was totally out of context. Obviously, my experience is different from that of councillors in small towns in rural areas. That was the type of planning going on and it was driven by the development plan. That is really where I commend Deputy Catherine Murphy and her PA, Eoin, for putting this sort of work into trying to push forward the transparency of future conditions in local authorities in legislation.

The transparency must come from the development plans themselves and the amount of interaction with the communities. As I am sure the Minister of State, Deputy Jan O'Sullivan, would agree, a big wound has developed between the citizens of the State who were sidelined when all of this was going on and the local authorities. The developers could access planners; the citizens could not. For example, there had to be a special meeting and one could only ask certain questions, one could not query too much, one could raise a point, for instance, where there should be a park, an access point or a recess, or where it should be reduced 5 m in height, but one could not challenge the planning application. This is where that relationship must change.

How we plan our country, cities and communities comes from such development plans and these would put a check on developers coming in because they would know what they would have to deal with. They would know what they are allowed build in an area and all the compliances that must go with it, for example, proper fire safety checks. There were only three fire inspectors in Dublin city in 2010 to carry out all the fire safety checks and sign-off on the apart-

ment blocks and buildings. It was outrageous. That should never have happened in the case of the buildings built in the city. That is where it starts, at the local area plans.

There were local area plans in Bluebell, Drimnagh, Walkinstown and other parts of the city but there was very little interaction between citizens and the local authority on them. Most likely, residents were presented with a plan and then would react stating that they were never involved in the process. There might have been a leaflet put through their door but residents did not take too much notice of it because it did not impact on them at that stage.

I remember the Bluebell area plan, which included building housing on Lansdowne Valley Park because it was the new way of having a view over the green areas to protect the areas etc. It was codswallop. They were talking about ten-storey or 12-storey blocks in the Bluebell community as well. The plan was rejected by the community. I remember asking for a moratorium to be put on the area plan and I was nearly torn apart by Fine Gael representatives there who asked how dare I have the cheek to-----

**Deputy Luke 'Ming' Flanagan:** To be anti-development.

**Deputy Joan Collins:** It was not even that I was anti-development but that the developers had rights. They had the rights; we did not. The people had no rights. That is where we must look at how we put in place such plans, into which developers must link-in along with all the compliances and checks, some of which have been raised here.

There are simple matters. For instance, if a planning application is submitted, the developer should not be allowed to put up a tiny A4 size planning application sign because residents might not notice it. Residents may rally together and submit an objection to the planning application and the developer may not get planning permission for the proposed development. Then another small planning application notice will be put up. If the developer does not get planning permission for the revised proposal, another notice will be put up, and the process will continue until one day approval is given, as it was given for the leaning tower of Inchicore, a 12-storey development which one sees as one approaches the Black Horse Inn. Residents did not realise that a planning application notice for that proposed development had been put up, and the planners gave planning permission for such development all the way down Davitt Road. That was the main building that was worked off. Such planning provisions must be examined.

**Deputy John Halligan:** This is one of the most practical and potentially useful Bills to come before the Dáil for some time. Any Deputy who has served on a local authority knows the state of chaos that prevailed for far too long in our planning system, the consequences of which are now entrenched in our local communities. When I was a city councillor I was constantly struck by the number of times that approval was given to developments that were contrary to the local development plans. Another major issue was the manner in which EU environmental laws were disregarded. I recall one incident in my constituency in which Waterford County Council granted planning permission for a major hotel development on a site that was designated as a special protection area. The State had selected that site as being of conservation importance. It beggars belief that such a decision could have been made with the county council knowing the area and the State having designated it as one of conservation importance.

The volume of unsustainable land zoning that went on during the boom years speaks for itself. According to figures I got from An Taisce, at the onset of our economic collapse we had enough zoned land to provide for almost a doubling of the population to 8 million, some 42,000

hectares were zoned for residential development, almost all of that land consisted of green-field sites.

Approximately 40% of the €75 billion property portfolio transferred to NAMA is categorised as development land. The sad reality, as the Minister of State and many of us know, is that much of that land was not going to be built upon in the first place and it probably never will be built on. We must put in place efficient safeguards to ensure this does not happen again. The needs of the community must be foremost when the zoning of land is under consideration, as the previous Deputy stated in respect of her area. Even though the Government supports this Bill, I am not satisfied that it has tackled the system in which developers were allowed to make hugely significant decisions about which land would be used with little or no planning advice. This happened throughout the country. An Taisce estimates that between 2000 and 2011 appeals taken against inappropriate speculative development reduced the value of the impaired loans by at least €505 million. These are loans that NAMA would have had to purchase in any event or, had they remained outside the scope of NAMA, they would have remained with financial institutions as non-performing burdens. Those are liabilities that Irish taxpayers are currently underwriting.

The Government has repeatedly stated that the approach to planning during the boom years, if allowed to prevail, would hinder sustainable growth into the future. However, its approach to the existing system has been far from satisfactory and it has been left, as the Minister of State can note, to those on the Opposition benches to address this issue. For this, I highly commend Deputy Catherine Murphy on her pragmatic solution which could go some considerable way towards promoting a transparent system that people can have confidence in and that will not allow another property bubble to engulf this country.

The Government came to power with a strong mandate for reform. Since then the planning system has remained open to widespread abuse and the flouting of regulations. Allegations of malpractice within seven local authorities were investigated internally by the Department of the Environment, Community and Local Government and those investigations deduced that there was no corruption in the planning system, yet the independent Mahon report identified evidence of “systematic weakness” within the same system. How can we balance that? The Department’s internal investigation found that there was nothing wrong and it took the Mahon tribunal, which had more or less the same information that the Government and the previous Government had, to make that finding. Questions need to be asked and answered - if they are to be answered - about that over the next months and years.

Compounding all of this, local authority housing strategies remain ill-equipped to deal with the evolving housing market in this country. I cannot let this opportunity pass without mentioning the those who are homeless. The number who are homeless is the highest in decades. The number of people sleeping rough in Dublin has increased by almost 50% since April, according to official figures. We cannot ignore the crisis in public housing, local authorities and the planning system and the participation in that process. Efficient planning will play a critical part in the economic recovery that the Government is keen to tell us is coming. The proposals in this Bill would go a long way to achieving that. It is important to note that there would be little additional cost burden to the State if these reforms were implemented, although they would save money in the long term.

I hope that in the Government, in accepting this Bill, will accept it in its entirety. Having read it, I believe it is excellent. I have shown it to people who have worked in planning in my

constituency and they have told me it is excellent. I commend Deputy Murphy on her enormous effort in introducing this Bill. I urge the co-operation of all parties in bringing it to Committee Stage without any amendments, and I hope the Minister of State will not put forward any amendment to it.

**Deputy Luke 'Ming' Flanagan:** First, I want to commend Deputy Catherine Murphy, as everyone has done - and not only for the sake of doing so but because it is deserved - on the brilliant work she has put into this Bill, which I hope is recognised. I decided to Google the level of interest in this debate and check it out on Twitter and found that it is being ignored. Why is it being ignored? It has been ignored by the media and by everyone for some reason. The hint is in the name of the Bill. Planning is the most important thing we can do because if we fail to plan we plan to fail, and we have failed as a country because of that. I ask why this issue is not being covered, but then again, the media did not cover the launching of many Bills by the Technical Group. People can say that is whinging, but the reality is if they are not covered, how do we ensure there is a debate on these issues and, in particular, on planning? How many reams of newspapers were sold on the basis of the planning scandals? The media will criticise politicians and say we never do anything right, but here we have a politician who wants to become a problem solver and the Government, of which I am very critical on many issues, has admirably supported her. Where is the support from the media? This is a very important issue and the reason it is important is that it damages democracy to constantly drum up the line that politicians are horrible, terrible people who never ever want to do anything right. We hold a candle to them when things are going wrong and we will blow out the candle when they might be doing something right. It is a shame and it is sad. It is sad that I have had to waste two minutes on this point, but it has to be said. Perhaps those in the media might listen because I am raising this, but then again, perhaps they will just ignore it.

This is a massively important issue. If the planning system, as many other Deputies have said, had been dealt with before the so-called Celtic tiger years, we could have been living in one hell of a brilliant country. We would not have a situation in which children are bored with no playground in their estate because we could not ask the developer to put in a playground in case it scared him off. We will face social problems down the line because this was not done. That is the reason it must be done now.

Planning must be led by people and, if it is not, there will be problems. It must cater for people and it must be about people and how they live. Deputy Joan Collins said that people are presented with an area plan as a *fait accompli* and are told they will be consulted. A Mayo Deputy, referring to pylons and wind turbines, said the planning process starts after the State has made up its mind. We must bring in people at the start; if not, we will end up with problems.

One excellent element of the Bill is the national compliance register, which will prevent rogue developers from roaming from county to county putting up shabby developments and moving on. Anyone who has been a councillor has come across the issue. The Minister for the Environment, Community and Local Government, Deputy Hogan, says this issue is dealt with in law. When I was a member of Roscommon County Council, I was always beaten down by the council executive when I suggested not granting a person planning permission to wreck another area or another piece of agricultural land. I was told that we were constitutionally barred from doing so. People may say I was naive to fall for that but the reality is that, while the executive has access to the might of whatever solicitors it wants to employ, the councillors, who are meant to be the eyes and ears of people, do not get the option of a second opinion. Councillors are much criticised and in many cases it is deserved. Councillor John Murphy was co-opted

onto Roscommon County Council in the past few weeks and the council was told it could not do something because the legal team said it could not be done. When Councillor John Murphy asked for a second opinion, he was told that a second opinion would be of the executive's choosing. We need to get around that. We can have all the rules in the world but if we do not have compliance within the council and among council staff, we are on the road to nowhere.

During the boom, An Bord Pleanála became the default planner for Roscommon. A greenhorn like me knew nothing about residential density guidelines until I spent one minute reading up on it. I discovered that a house was getting planning permission in my town although it clearly contravened the rules. I helped people to submit an objection to An Bord Pleanála. The application was stopped. If a greenhorn like me could spot the issue, how come the council could not spot it? The reason is that it was not serious about planning.

Yesterday, the judgment by Mr Justice John Hedigan criticised the planning authority over decisions in Galway. It said the planning authority was doing nothing serious on planning. The person who was eventually hit for building without planning permission was described as having an extraordinary planning history. How does one have an extraordinary planning history unless someone is complying with the person? One cannot have a history unless one does it over and over again. While the people in Tuam have a High Court judgment, people should not have to risk everything they have to get decent planning. No matter what happens with the Bill, until we do something about the fact that we have people in councils with power equivalent to Rumpelstiltskin's ability to turn straw into gold, we need some way to make sure these people are compliant. We know what human nature is.

**Deputy Michael Healy-Rae:** I thank the Technical Group and particularly Deputy Catherine Murphy for introducing this Bill and allowing me speaking time. It is prudent, right and proper that we have a debate on the Bill because it shines a light on an issue clouded in mystery and controversy for many years. The majority of Members have been members of local authorities. Everyone must speak about their own experience but I will defend the work done by planners, management and councillors in County Kerry. Sometimes the media like to give the impression that councillors over-zoned land for a multitude of reasons, some of which were proper and heartfelt reasons. They wanted to provide land in a genuine way for development and zoning. Others did it for personal financial gain. That was totally wrong but it is equally wrong to paint everyone with the same brush. There were some genuine councillors. They use of section 4 and section 140 motions was much maligned. Every such motion I tabled before Kerry County Council was done after a thoughtful process. It was done to provide a family home for young people, primarily those who wanted to build on family farms. Many people are in those houses and they have nice young families and I will never make an apology to anyone in respect of my record on planning issues in County Kerry. I will never apologise on my planning record to someone in journalism who knows little or nothing about planning.

Important issues are dealt with in this Private Members' Bill. A huge amount of work went into it. This allows us the opportunity to discuss issues like An Bord Pleanála, which has many questions to answer. I could never understand how that board can send out an inspector to a place like County Kerry or another part of the country to examine a planning issue where the appeal is before the board. The consultant or inspector is qualified to do a job and write a report. In many instances, the consultant goes back to the board with the report and the board sits, usually in the evening, and in its infinite wisdom overturns the planner's report. It does not matter whether the planner is saying "Yes" or "No". In many instances, the inspector's report is overturned and I can never understand it. People who had never visited the site had sent out a

supposedly competent person and, not having looked at the site and only having read the report, chose to overturn the inspector's decision. It always baffled me. I do not think it was right and An Bord Pleanála has many questions to answer. I would like to see it accounting for its activity, particularly during the boom.

The Bill addresses ghost estates and I am dealing with people living in them. It is a horrible thing for young families with children in an estate that is not a safe place to raise children. In many cases, they have paid above the odds for houses. They are left in a place with unfinished roads and public areas, with half-finished houses in a state of total disrepair while trying to live and raise young families. To be honest, it is like living in hell. I have visited many of these estates and it is an awful predicament for people. They are locked in and there is no way out, as they cannot sell the property because they would not get a fraction of what they paid for it. Who in the name of God would anyone want to move into a ghost estate or half-finished development?

With regard to the track record of councillors, I can just speak for my colleagues. They were driven by a very genuine interest in helping people and in the majority of cases of "overzoning", as it may be called, the county councillors were not at fault, rather the planners who made proposals to zone land in a particular way in county development plans. Of course there were rogues and people who blackguarded the system because they were dishonest, and I hope those people were rooted out, which would have been the proper thing to do. I welcome the debate at a time like this, when we can look to the future and try to address the problems of the past.

We must ensure that safety mechanisms can be put in place so we never again have too much development in the wrong places. Hotels were built where there was no demand for them because builders who knew nothing about the hotel, catering or hospitality sector thought they could become hoteliers overnight just because they could get planning and build a hotel with a scheme of houses beside it in order to make a quick buck. Those people put hotels in places they should never have been in the first place. We must realise there are hotels in Ireland which, unfortunately, will have to close because there is no place in the market for them.

I thank Deputy Catherine Murphy for her excellent work in preparing this legislation. Much time, diligence and work goes into introducing a Private Members' Bill like this to the House, so I commend her for doing so.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** Like everybody else in the House I commend Deputy Catherine Murphy on bringing forward this Private Members' Bill. I reiterate the comments of the Minister, Deputy Hogan, last night that the Government will not oppose it. There was much agreement on all sides of the House about the importance of the issue despite, as Deputy Luke 'Ming' Flanagan has noted, a lack of media interest. Planning is a major issue when it goes wrong but unfortunately we do not always get much attention when we are trying to fix the process. Generally, there was a common theme of improving transparency and consumer confidence while affording greater protection to consumers. It is fair to say that we all want to put in place an efficient, functioning and fair planning system to facilitate balanced, sustainable development which can simultaneously protect the interest of citizens.

Nearly everybody who spoke has served time on a local authority, which was very evident in the amount of practical experience and knowledge that people have with issues concerning local government, planning and housing, etc. I am absolutely determined that we will learn

from the boom and bust cycle we have gone through and will put measures in place to ensure that will not happen again. Everybody in the House shares that determination. We are still dealing with unfinished estates, etc., and such issues arose from reckless over-speculation and development engaged in by the construction sector and facilitated by some elements of the political, administrative and banking sectors. The issue of inadequate enforcement was also raised by many Members.

With regard to “overzoning” and related issues, we have already been able to get councils around the country to reduce inappropriate zoning for housing. I have used powers as a Minister of State to direct authorities in certain cases where there is inappropriate zoning or no evidence that an area is zoned appropriately. For example, this applies where residential zoning has occurred on flood plains. I intend to use those powers again. Unfortunately, such powers were not used to any great extent by Ministers at a time when much of this bad planning was ongoing. There has also been a distinct lack of accountability for the position of many home owners, where having made the biggest investment of their lives in the form of a house, they found themselves without basic requirements such as footpaths, street lighting and proper roads. Developers are no longer around to satisfactorily complete the estates.

There were a couple of other common themes and I will try to touch on some of the issues raised, including the speeding up of the process of taking in charge estates, ensuring that bonds are adequate for the completion of estates and the matter of community gain. We are working on all these issues in the Department and I hope to introduce proposals in that regard. In the budget, the Minister for Public Expenditure and Reform, Deputy Howlin, announced a €10 million fund for the completion of unfinished estates, and early in the new year we will bring proposals for councils to apply to that fund, particularly for cases where there is no bond or an inadequate bond for completing estates.

There were a number of comments regarding transparency, including the proposals for the establishment of national registers on planning compliance and agreed development contribution liabilities. As the Minister, Deputy Hogan, indicated last night, there are some practical considerations around the implementation of these proposals, particularly the level of detail proposed in respect of the reporting data on development contributions. I will give consideration to the matter of how compliance and enforcement data could be better published electronically, and I am also examining the compilation and publication of more comprehensive information on development contributions generally - locally and nationally - than is the case now.

Local authorities have made good progress with on-line information. There is an issue regarding past non-compliance, which was raised a number of times, and this relates to section 35 of the planning Act. If that is not being properly applied, we may need to examine the matter further. Both the Minister and I have indicated on a commitment raised tonight by Members for a review of the Planning and Development Act by bringing forward a new planning Bill in the first half of 2014, primarily for the purpose of implementing recommendations from the Mahon tribunal. That would involve the establishment of a new office of the planning regulator. These new provisions will represent a fundamental change to the planning system but I also intend to undertake a broader review of the Planning and Development Act, including consideration of some of the important issues raised by Deputy Catherine Murphy in her Bill, as well as other Members. This is with a view to appropriately updating and strengthening provisions, particularly in the enforcement area.

I thank the Members for engaging in a very positive debate and I particularly thank Deputy

Murphy for bringing forward the Bill.

**Deputy Seamus Healy:** I commend Deputy Catherine Murphy on drafting the legislation and presenting it to the Dáil last night and tonight. It is well thought out and demonstrates an in-depth knowledge and practical experience of planning issues. The Deputy has gained that experience over a life of service to communities in the Kildare area, including dealings with planning authorities, community and residents' associations and individuals.

It is important to stress the name of the Bill, which gives a clear indication of its purpose. It is the Planning and Development (Transparency and Consumer Confidence) Bill, and the phrases "transparency" and "consumer confidence" are absolutely essentially in the ethos and culture of the Bill presented by Deputy Murphy. As a result, the Bill is an attempt to give back control over their areas to communities and individuals. It is welcome that the Government will not oppose the Bill and I hope that with future legislation, it will take on board and implement the various provisions in this legislation. This is a common cause right across the House, as we have seen over the past two nights, and the ideas in the Bill are essential for a transparent planning process in future.

A matter we need to deal with now, which we should have dealt with years ago, is the price of building land. If we had dealt with this, we would not have had the scandals that arose or young couples paying huge prices for houses. These couples are now in negative equity and have distressed mortgages.

Back in the 1970s, when I was a young clerical officer in South Tipperary County Council, the Kenny report on the price and value of building land was published. It was widely accepted and recommended but never implemented. Unfortunately, this means we have had to endure the debacle in the construction sector in recent years. At this juncture, the Government should deal with the price of building land and use the formula from the Kenny report, namely, that the value be the use value of the land. This is essential if planning and development are to be dealt with properly over the coming years.

The provision of community infrastructure prior to the commencement of development is a very important element in the control of planning. It should be part of the general planning culture and ethos and it is vital. In the past, houses were built without community facilities, halls or crèches. Various infrastructural developments - not only roads, sewers and water services but also community facilities - should be put in place prior to the building of estates.

A series of other issues are dealt with in this legislation, and they have been mentioned by previous speakers. These include the national planning compliance register, which is vital. Daily in our constituencies we come across the question of the taking in charge of estates. The provisions of the Bill in this regard are excellent and should be introduced as quickly as possible. A related matter is the question of bonds and the availability of bonds to complete unfinished estates. Right across the country people have been living in uncompleted estates, sometimes for up to 16 or 17 years. They now find themselves unable to sell their houses if they want to do so, as the proper title cannot be given. I commend Deputy Catherine Murphy on introducing the Bill and hope the Government will genuinely take its provisions on board and implement them as soon as possible.

**Deputy Catherine Murphy:** I thank everyone who contributed to the debate both last night and tonight. There was quite a range of contributions and support. I particularly welcome the

fact that the Government is not opposing the Bill and the comments of the Minister, Deputy Phil Hogan, and the Minister of State, Deputy Jan O'Sullivan. The Minister of State has a large body of work in the areas of housing and planning, both of which are really important and have a very direct impact on our lives irrespective of whether they receive the attention they deserve. I take Deputy Flanagan's point in this regard.

I paid particular attention to what the Minister and Minister of State had to say in order to know what parts of the Bill are likely to be problematic or amended. I will refer to some of the points made. I accept that the national planning compliance register creates an additional administrative burden on one side but there could be a very sizeable change in culture and quite substantial savings from having such a register. Essentially, this would prevent a developer who acquires a really bad reputation in one area from starting with a clean record somewhere else only to do exactly the same thing. It is important that we capture the relevant information at national level and that there be a means to search a developer's history when an application is being made. We will not reward good behaviour or have a really good construction sector unless we deal with this issue and weed out the rogues. We must have the means of doing so. We cannot have 34 planning authorities with separate databases of information. We must pool the information.

I accept that section 35 of the Planning and Development Act 2000 is in place. It exists in theory but I am anxious that it be implemented in practice. What is missing in this regard? I want to be practical about identifying the problem and suggesting solutions. There can be a collaborative approach in suggesting solutions because if there is a matter in respect of which there is considerable expertise in this House, it must be planning and development. This is because we have all been through the planning and development system, some of us over decades. Several developers in County Kildare have not completed developments. Some developments have been left unfinished for up to 20 years. Despite this, the estates have not been taken in charge.

Section 35 only stands up where there is a conviction. Where enforcement proceedings are linked to fines for less serious instances of non-compliance, the burden of legal steps in court proceedings would be less onerous on the planning authorities. Perhaps we would create a different culture and ensure a higher level of compliance if we reduced the burden on local authorities in this regard.

With regard to section 6, I take the Minister's point on undue flexibility. However, this is an issue of language. I believe the section can be amended. The Minister said the existing legislation requires the authorities to "have regard to" certain matters. This term is very discredited. It should be a case of being compliant and consistent with a plan. If a development is not consistent and compliant with a plan, "having regard to" is a fairly meaningless term. One can have regard to a plan and then ignore it. Most of us who really want to see in practice what is set out in theory will understand that there is a really significant meaning attached to a change in the wording.

With regard to a centralised national schedule of agreed development contribution liabilities, Sinn Féin completely misread my intention. It is not a case of preventing the setting or retention of contributions locally but about capturing the information nationally. That in excess of €312 million in legacy development contributions is outstanding indicates that development contributions are not paid when developments commence.

*9 o'clock*

There can be real problems when that money is not collected for infrastructure that is required to provide for the development. It is very important that we capture that nationally. Given that the planning process itself is a public process, I do not see any reason why this cannot be public information, captured in a different way. The local government computer services board designs the websites for the local authorities and there is a consistency about them. There is no reason why this kind of information cannot be captured at planning application stage. I am seeking to include a retrospective element to some of this but I accept that retrospective data may be more difficult to capture. However, we could at least focus on the areas where moneys are outstanding and progress from there. There must be ways of doing this.

I was very pleased with the support expressed for a number of provisions in the Bill, including the reduction in the number of years before an estate can be taken in charge. I understand that the Law Reform Commission proposed that it should be the owner who has the right to petition to have an estate taken in charge but there are absentee owners in many estates and perhaps the person who is living in the estate should have a petitioning right. That question merits further attention.

On Part 8, I accept there are valid arguments on both sides. However, objections generally emanate from people living very close to a proposed development and sometimes there is wholesale resistance. At the very least, a second opinion should be sought from someone who is not directly connected. That is not an unreasonable provision to include in legislation.

Essentially what I am attempting to do with this legislation is to change the culture. More needs to be done and the Minister of State knows that too. I look forward to her Bill in the new year. I want to see a licensing system for builders, for example. The construction industry is a good industry but it has been muddied by those who have behaved like cowboys. We have not rewarded good behaviour in the construction sector. By putting the citizen and the consumer centre stage, we will add another dimension to how we frame legislation. Up to now it has been framed, by and large, with the construction industry and local authorities in mind, with the citizen and the consumer sidelined to a great degree.

I acknowledge the fact that this Bill is not being opposed. Support has been expressed for many of its provisions. I hope we will be able to progress some aspects of the legislation in the first half of next year, in the context of other planning legislation that will also be coming forward in 2014.

Question put and agreed to.

### **Planning and Development (Transparency and Consumer Confidence) Bill 2013: Referral to Select Committee**

**Deputy Catherine Murphy:** I move:

That the Bill be referred to the Select Sub-Committee on the Environment, Community and Local Government, pursuant to Standing Orders 82A(3)(a) and (6)(a) and 118 of the Standing Orders relative to Public Business.

Question put and agreed to.

The Dáil adjourned at 9.05 p.m. until 9.30 a.m on Thursday, 19 December 2013.