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PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*

(OFFICIAL REPORT—*Unrevised*)

Thursday, 25 *June* 2009.

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SEANAD ÉIREANN

Déardaoin, 25 *Meitheamh* 2009.
Thursday, 25 *June* 2009.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

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

> The need for the Minister for Justice, Equality and Law Reform to give an update on recommendation 9.01.7 of the Colley report on domestic partnerships which stated "a comprehensive study of cohabitation in Ireland" was required.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

> The need for the Minister for the Environment, Heritage and Local Government to provide a co-ordinated response to the Gweedore flooding problem and make emergency funding available to assist with the recovery plan.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Order of Business.

Senator Dan Boyle: The Order of Business is No. 1, Financial Measures (Miscellaneous Provisions) Bill 2009 — all Stages, to be taken at the conclusion of the Order of Business, with the contributions of spokespersons on Second Stage not to exceed 12 minutes and those of all other Senators not to exceed seven minutes, and on which Senators may share time; and No. 2, earlier signature motion, to be taken at the conclusion of No. 1.

Senator Liam Twomey: In the light of what we read in the newspapers this morning, that the country faces the worst economic crisis seen anywhere in the last 60 years, according to the IMF, and the fact that it calls for cuts in public sector pay and numbers, increased taxes and an end to universal payments, we should have an early debate on the wider economy. After the Order of Business we will discuss legislation, but we should have an early debate on the economy in the light of the fact that it is expected to contract by 13.5% and that the level of unemployment is to exceed 15%. An early debate on the matter is very important, especially to give Senator Hanafin the opportunity to express his views on the economic prudence of the Government in the light of the figures about which we read this morning.

I also ask the Deputy Leader for a debate on the health service and would like to move a motion that we have this debate after the Order of Business. Government policy on the health

[Senator Liam Twomey.]

service seems to be in tatters. There is major concern about the corporate management of the HSE. I, therefore, ask the Deputy Leader to contact the board of the HSE to see if it still has confidence in its CEO and senior management. It is bad enough that the Minister for Health and Children, Deputy Harney, seems to have lost touch completely with what is happening in the health service, but there is a concern and rumour that the board of the HSE has lost confidence in the CEO, Professor Drumm, and his senior management team and what is happening at corporate level in the HSE. The matter urgently needs to be clarified in the light of the major importance attached to the service the HSE provides for the people.

Senator Joe O'Toole: Yesterday we were given another commitment to have a debate on the economy. I support Senator Hanafin in what he has asked for in the last couple of weeks. It would be very helpful to have a debate here on the views of the different parties to drill down beyond what they are. I have previously said I believe that many people in all parties in both Houses do not quite understand their parties' policies and I would like to hear them outline them. It would be very helpful for people to drill down through the top level, second level and third level of what is being proposed by the different parties. Those of us who take a more disinterested line perhaps without taking a political view on it certainly would like to hear that and it would be very helpful.

Based on yesterday's report it is discouraging and dispiriting to discover that the Government would appear to be the author of its own misfortune. That is the view of an independent assessment by the IMF. On the other hand it is also heartening and encouraging to note that the independent international observers regard the Government's plan as a workable way out of our problems. That needs to be considered. Both issues are important and need to be dealt with clearly. We should recognise that this banking tsunami or earthquake has created a series of aftershocks in unemployment, small business, mortgages and, in particular, pensions. During the course of the discussion I would like to hear outlined the plans for each of those areas. While I accept the Government's point of view that banking needs to take priority at this stage, the Government needs to recognise that ordinary people do not fully understand this. There has not been a debate on it. They want to hear what we are doing about pensions and to support employment, small business and mortgage holders who are in the same position as banks in that they cannot afford to pay their debts. They also need support. Those issues need to be considered and addressed in a fair, open and honest way. I look forward to a debate on the matter and to the Deputy Leader's response to it.

Senator Alex White: If the Government wishes to take some crumbs of comfort from the IMF report regarding the perceived praise of the measures the Government is taking to address the economic crisis, it cannot in logic avoid dealing with the devastating critique of its actions and inactions during the period from 2002 to 2007 in particular. Senator Boyle's party can avoid that in logic and in fairness to it because it was not in government at the time. There are one or two members of the current Government who, as the Minister for Finance, Deputy Brian Lenihan, took great care to point out, were not members of the Government during that period. However, 15 people were in that room between 2002 and 2007, including some of the people, such as the Minister for Defence, Deputy O'Dea, and others, who are now attempting to avoid the devastating criticism of the actions of that Government during that period.

We talk about clearing away boards of banks and of institutions that have done wrong. How could any individual politician who was a member of that Government and sat in that room when the door closed for Cabinet meetings between 2002 and 2007 ever honestly hold up his or her head again and suggest to the people that he or she could continue to be a member of the Government of this country, given what has been said and seen in recent months in respect of its stewardship and failure to guide the economy properly and prudently during that period. None of those people who took us to where we are deserves to be a member of the Government in the future.

I agree with Senator Twomey on the need for a debate. Senator Hanafin and others have made a cry for a debate on what all the parties would do. He wants the Opposition to make proposals to deal with a shortfall of €20 billion whereas the Government is talking about dealing — not today or tomorrow, but sometime later in the autumn — with a shortfall of €4 billion. We have the extraordinary situation where the Labour Party and Fine Gael are being asked to make proposals to deal with a shortfall of €20 billion when the Government is talking about €4 billion and is not even making its own proposals until some time in the autumn. Let us have some reality about the nature and level of the debate that people want and expect from Opposition parties and the level of application, knowledge and information that people on the Government side expect from Opposition parties when the Government, itself, does not even have the proposals it deems necessary to deal with the €4 billion shortfall to which it points.

It would be useful to have a debate on the IMF report because at least people would then need to read that report. They would need to avoid the spin and deal with the facts. This is not spin; this is a fact. A clear disagreement is manifest in the IMF report regarding the Government's position on possible nationalisation of the banks. The Government needs to face up to that. I quote from the IMF report in considering what nationalisation might achieve.

> Having taken control of the bank, the shareholders would be fully diluted in the interest of protecting the taxpayer and thus preserving the political legitimacy of the initiative. The bad assets would still be carved out, but the thorny issue of purchase price would be less important, and the period of price discovery longer, since the transactions are between two government-owned entities. The management of the full range of bad assets would proceed under the NAMA structure.

This is precisely what we in the Labour Party have been saying about nationalisation. The report continues to state:

> The authorities [meaning the Government] prefer that banks stay partly in private ownership to provide continued market pricing of their underlying assets. They disagreed [in other words the Government disagreed] with the staff's view that pricing of bad assets would be any easier under nationalization.

Given that the word "disagreed" is used, how could it not be a disagreement? That is a clear disagreement and cannot be spun in the way it is being spun to suggest there is not a disagreement.

An Cathaoirleach: Does the Senator support the amendment?

Senator Alex White: Yes.

Senator Terry Leyden: I support Senator O'Toole's proposal for an open debate on the economy and the IMF report and the OECD report. The Opposition should be very careful because it might actually achieve that for which it wishes.

Senator Liam Twomey: What is that?

An Cathaoirleach: We will have no interruptions.

Senator Terry Leyden: In fact it would not be in a position that it would be in government in the morning. The IMF report supports and endorses the steps taken by the Taoiseach and the Minister for Finance, Deputy Brian Lenihan. In an interview on “Morning Ireland” this morning the Minister indicated a very confident approach to both reports — the OECD and IMF reports.

Senator Jerry Buttimer: Did the Senator hear what he said?

Senator Terry Leyden: In recent days I was speaking to——

An Cathaoirleach: Does the Senator have a question for the Deputy Leader?

Senator Terry Leyden: ——the president of the European Bank for Reconstruction and Development. I pointed out to him that we have very steady Government here that will see us come through choppy waters.

Senator Paul Coghlan: The Senator is reverting to type.

Senator Terry Leyden: I recall a period in 1981 to 1982 when the Opposition parties were in government. They lasted approximately nine months.

Senator Fidelma Healy Eames: How long is Fianna Fáil in government?

An Cathaoirleach: Questions to the Deputy Leader.

Senator Jerry Buttimer: Is the Senator going back to the time of Charles Haughey?

Senator Terry Leyden: There was a large portrait of Deputy Gilmore outside the SIPTU headquarters recently. I can assure Senators that if the Opposition parties are in government and Deputy Gilmore is Tánaiste, I do not know where he will be hanging and whether it will be outside or inside SIPTU headquarters——

An Cathaoirleach: Let us not ruin questions on the Order of Business, please.

Senator Terry Leyden: ——because they would realise the situation was so grave and serious that the only Government that can work is the one with Fianna Fáil, the Green Party and the former Members of the Progressive Democrats.

Senator Maurice Cummins: The people do not believe the Senator.

Senator Terry Leyden: I appeal to the Opposition to refrain from undermining the Government and allow us——

An Cathaoirleach: Point made.

Senator Terry Leyden: ——to get on with our job in a positive and constructive manner.

An Cathaoirleach: I call Senator Regan.

Senator Terry Leyden: I can assure Senators that we will bring the country through this difficult period and back to prosperity again.

A Senator: Bring back Taca.

An Cathaoirleach: The Senator’s time is up.

Senator Fidelma Healy Eames: Did the Senator miss the results of the local elections?

An Cathaoirleach: I call Senator Regan.

Senator Terry Leyden: How could The Worker's Party be in Government?

Senator David Norris: We have the green and the yellow; all we need is the white flag.

An Cathaoirleach: Senator Regan, without interruption.

(Interruptions).

An Cathaoirleach: Senators should maintain the dignity of the House and refrain from interrupting.

Senator Eugene Regan: Smothering debate on the economy has cost the country dearly. Before the previous general election anyone who spoke about the economy was accused of talking it down. We all recognise we have a serious problem. Senator Leyden is suggesting that we do not talk about the economy again in case we interfere with the Government's actions in this area. The fact is that the Government is still in denial. The IMF report shows a much deeper cost of restoring the Irish banks — €34 billion is the figure now when it was €24 billion in April, which was the figure in the IMF report. The Taoiseach questioned the correctness of the report. Now the Minister for Finance says it is fair. It is for us to point out such inconsistencies in the Government's policy on the economy. It is important for the Government to stop the denials. For every report that comes out there is a soundbite which is either based on inaccurate figures or claimed as an endorsement of Government policy. It is quite the contrary, however. The IMF report clearly says that NAMA was "potentially" the right mechanism to separate good assets from bad ones. It is not an endorsement of the Government's approach. It provides for quite a number of measures that the Government must undertake to ensure NAMA will work. It may potentially be the right mechanism but I have no confidence in the Government being able to implement that strategy correctly.

The IMF report also underlines the Government's strategy on expenditure and tax cuts. Fine Gael has been to the front in pointing out the inconsistencies in these areas in recent budgets. The IMF endorses the Opposition's position on public finances, including expenditure. We should have a truthful debate on the economy without trying to smother discussion on the facts of the situation.

Senator Jim Walsh: Yesterday I called for a debate on the economy, especially in the aftermath of the publication of the IMF and OECD reports. I welcome the fact that the Minister for Finance has embraced the IMF report's contents. It clearly signals that there are still huge risks involved in tackling this undertaking. The report recognises that the route being taken is necessary and in all probability is the right path. We should endeavour, however, to have an open and constructive debate.

I know it is difficult for Opposition parties who see political gain in adopting a contrary approach, but I am mindful of the comments by the former Swedish minister for finance who had to deal with that country's banking failure in the 1990s. While that was done against the background of a much more benign global economic situation, he identified that political consensus in Sweden was a significant factor in successfully tackling their problems, even though it took them a considerable time to overcome those difficulties. The IMF has also said it will take us a considerable length of time, but it behoves everyone to try to put the national interest first. I know, however, that it is difficult for people who have been out of Government for 20 years.

Senator Joe O'Toole: That is disgraceful.

Senator Jim Walsh: Senator Alex White and his Labour Party colleagues have opposed everything the Government has done to address the horrendous banking crisis we have. In fact, however, the IMF report does not oppose the National Asset Management Agency, NAMA. It said we may need to look at nationalisation but in doing so it would not be a substitution for NAMA. People need to get real and in particular the two main Opposition parties need to tell the public how they would resolve their significant policy differences which are diametrically opposed and would be ruinous if applied to resolving our current difficulties.

Senator Fidelma Healy Eames: Our policies have been published.

Senator David Norris: Let us have some good news. I wish to be the first to congratulate our colleague, Senator Shane Ross, on being awarded the distinction of business journalist of the year. This is unique among colleagues in the House. He has shown the genius of a great general in picking his subordinates, including Nick Webb who also won an award.

On the third anniversary of the seizure and disappearance of Gilad Shalit, will the Deputy Leader ask the Minister for Foreign Affairs to use his skill in approaching leaders of the various Palestinian groups to see if his release can be secured?

With regard to the IMF and the economy, the record of the House will show that I suggested something very close to NAMA practically two months before the Government came up with it. I also suggested they would have to merge the banks and nationalise them. According to the IMF, I was right about NAMA, mergers and nationalisation. If the House wants a further prophesy, it is the system, stupid.

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

Senator David Norris: It is the whole problem of capitalism, which is predicated on the idea of an infinitely expanding market. One cannot have that, however, because it will burst. This is one of a series of crashes that, given the historical context, will become more severe and will occur closer together. On the radio this morning the announcer said, "Now for some good news: the weather". Is that good news? It is not. We heard about what happened in Donegal.

An Cathaoirleach: A question, please.

Senator David Norris: Does the Deputy Leader agree with me that Senator O'Toole is wrong on this occasion? The economy is not a tsunami, it is a man-made event, but the tsunami is coming. If they cannot fix the economy, which is comparatively simple, let us sit back and watch them fix the weather, although I doubt it, honey. I am 65 and with any luck I may not be around when the bang happens.

Senator Alex White: Nostradamus himself.

Senator Labhrás Ó Murchú: I support the call for a weekly debate on the economy, which has been proposed here before. It is not sufficient to have a related debate every few weeks on a given issue. If we are to do justice to this House and also endeavour to contribute to solving the economic difficulties, it must be done methodically. It should be possible to reach cross-party agreement as to what that method should be. In dealing with such a complex issue one cannot expect to come up with a focused solution in two or three hours. It will not happen. It must be broken down into segments, but that will only be successful if we are sure that on the schedule every week a section of that debate will take place in the House. I do not mean for an hour; it must be for an extended period.

We did not need the IMF report to realise we had a serious situation. That is why we have so much agitation and a feeling of helplessness. We know how serious the situation is. Perhaps it took some time for it to sink in. For a number of months we just could not believe we were in a recession and were subject to global economic forces, but we know it now. People in the dole queues know it most of all because they cannot pay their mortgages. They have no hope and there is not even an escape route out of Ireland to get jobs abroad like there was in the past. We have a serious situation but nothing will be gained by either side of the House in making a political football out of this. The only hope we have it to recognise the potential of this Chamber, but we must do so in a manner that focuses on the issues involved. I agree with Senator Hanafin in this respect. I see nothing wrong with having the proposals of each group in this House on our desks. We would gain kudos from the public and it would help those who cannot help themselves.

Senator Fidelma Healy Eames: There is a proposal to introduce legislation for a €200 property tax on holiday homes before the summer recess. The Deputy Leader's party leader, the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, has said that this will collect approximately €40 million for city and county councils throughout the country. He said it represents a significant broadening of the revenue base for local authorities. Is the Minister extremely naive? Does he realise the difficulties city and county councils currently have in collecting rates, not to mind having to collect a new property tax? I see this as a cop-out by the Minister. It is naive and insulting that he does not realise how stretched councils are for funding. It is a means of giving less in the local government fund. The Minister should address these issues before he attends this House to present the legislation on the new holiday homes tax.

I am seeking an urgent debate on the car industry and how we can save it. Yesterday, we heard the news from Galway that 200 jobs have been lost at Tom Hogan Motors, which has dealerships nationwide. This industry has been hit hard by the recession with falling sales. It has also been hit by emission regulations, which the Minister, Deputy Gormley, introduced. In addition, it has been hit by requirements for investments in Euro glass palaces, as well as imports from the North and from Britain. We have sat idly by. What will the Minister do to save our indigenous car industry? I would like the Tánaiste and Minister for Enterprise, Trade and Employment to look at that.

11 o'clock

An Cathaoirleach: The Senator's time is up.

Senator Fidelma Healy Eames: I would like a debate on prison policy and its effectiveness for both the prisoners and the guards who work in prisons.

An Cathaoirleach: I call on Senator Mary White.

Senator Fidelma Healy Eames: I was in Mountjoy Prison yesterday on business. One of the guards told me that she feared for her life every day.

An Cathaoirleach: The Senator's time is up. I call on Senator Mary White.

Senator Mary M. White: I draw the attention of Members to a most inspiring protest at the gates of Leinster House yesterday. Twenty children between the ages of four and 11 protested at the failure of the Government to provide them a new school. The existing school in Ballinkillen, County Carlow, is 200 years old next year. Just think about that. Children are being educated in a building that is 200 years old.

Senator David Norris: I was educated in a building that was 300 years old.

Senator Liam Twomey: It is about 400 years old now.

Senator Mary M. White: The sight of the four year olds with their banner was inspiring, and it did not leave my thoughts.

Senator Fidelma Healy Eames: What did that say?

Senator Mary M. White: They learned that Leinster House is a place where action takes place. People are cynical about politicians and about Leinster House, but these young people are learning a political lesson at four years of age. I was so impressed by that.

Senator Fidelma Healy Eames: Is the Government going to build the school?

Senator Dominic Hannigan: I join Senator Ó Murchú in expressing my belief that we need to become less partisan in our approach to politics. I would also like to pick up on something Senator Walsh said about the Swedish model. Let us not forget that in Sweden, the Government called in the opposition before it made any announcement, and a consensus was reached on both sides before anything was done. The IMF paper which we have been debating states that there have been numerous instances, such as Sweden, where a period of public ownership has been used to cleanse balance sheets and pave the way to sales back to the private sector. We have been saying this all along in a constructive manner. With respect to Senator Leyden, I do not think his comments this morning help to engender a spirit of constructiveness in these Chambers.

Senator David Norris: No, but they get a headline.

Senator Dominic Hannigan: They might get headline——

Senator Terry Leyden: I am just warning people.

An Cathaoirleach: There are many Members looking for headlines.

Senator Terry Leyden: I have been a Member before the Senator and I know the story.

An Cathaoirleach: Questions to the Deputy Leader on the Order of Business.

Senator Dominic Hannigan: I have a question on the Amnesty International report that was published today and given to us by a former colleague, Colm O'Gorman, who is now executive director in that organisation. Sandwiched between human rights abuses in Iraq and Israel is the section on Ireland, which is much shorter than either of those countries, Senators will be glad to hear. However, there are concerns on detention centres and how we treat our asylum seekers and children with mental health issues, who we put into adult facilities. There are also concerns about overcrowding in prisons, a subject raised by Senator Healy Eames. With the collapse of the proposal to build a new prison at Thornton Hall, we have a problem with how we deal with prison overcrowding. The Leader should bring the Minister for Justice, Equality and Law Reform to the House to talk about conditions in prisons and other detention facilities.

Senator Ann Ormonde: I agree with many speakers that we should have a cross-party discussion on the financial situation. I do not want any more talking the talk. We have spoken every day for the past three weeks about the financial situation, and while it is a huge debate, we should be constructive about it and not bash one another as has been the case in the Chamber. I would welcome a cross-party constructive debate on the issue. As Senator Hanafin has said over recent days, everyone should put forward their best proposal and we can have a good debate on what is good and what is bad about the process.

We have also been speaking about reform of the prisons and how to rehabilitate young people. There must be another way than just sending young people to prison for minor faults, and this would be a welcome debate.

Protests outside Leinster House were referred to. While I welcome any protest which will speed up the construction of new schools, I am not so sure I agree that young children from the age of four should be taken out of their classrooms and disciplined and tutored by their parents or teachers that this is what they must do. I am not so sure that is the way to go forward in dealing with young children. I would like the adults to take control. If they must protest, they should do it in a constructive way, but young children should not be involved. It is not healthy that such a mind should be taken at such an early age. That is my own feeling. I agree that we can protest about the school.

Senator Mary M. White: I saw at first hand the effect that those young people had yesterday.

Senator Paul Coghlan: I second the amendment proposed by Senator Twomey to the Order of Business. Despite the dire straits in which we find ourselves and all the disagreements which have been mentioned, it is good to know that in the national interest, the IMF welcomes the concept and the model of the National Asset Management Agency, NAMA. As we all know, the orderly restructuring of the financial sector is essential to securing the long-term viability of our economy.

We are led to believe that the Cabinet has approved the draft outline of that legislation. Delay is the enemy here. I appeal to the acting Leader and the Government to keep us here and get this legislation through in July rather than waiting for September. God only knows what could happen in the meantime. There are signs of so-called claim jumping in the Commercial Court. We do not want that to develop in advance of the legislation being in place. The Government will secure a Supreme Court test on the passage of the legislation to ensure its constitutionality or to preclude the possibility of other challenges down the line. That is the wise thing to do. Can the Deputy Leader tell the House where precisely this legislation is at? The agenda may be changing a little from day to day, but it is essential and I plead that both Houses have the legislation passed before the end of July.

Senator Camillus Glynn: Every day in this Chamber and elsewhere, the word "recession" is at the tip of every tongue. I ask the Deputy Leader that he call on his colleague, the Minister for Environment, Heritage and Local Government, to come to the House to have a debate on planning enforcement. When we talk about planning, people think about developers straight away. I am supportive of developers, as they are people who provide a very important service. There are responsible developers, but there are also developers who left estates unfinished in my county in the good times. Unfinished estates were an issue at the 2002 general election, the 2004 local elections, the 2007 general election and the 2009 local and European elections. These people have to be brought to justice. They have trousered the money they received for the development of houses and the local people are left without essential services. What will happen down the road is that the local authority will be forced to take charge of those estates and Seán and Mary Citizen will have to pay for what is required.

The recession is being used by some employers to exact unfairly money from their employees and to indulge in practices that are less than acceptable. This must be stamped out. The word "recession" had even been formulated before they were at it. What is going on is grossly wrong and human rights issues are involved. Something must be done. Members in the Dáil have also raised this matter. I ask for debates on planning enforcement and on the practice of extorting money from employees unfairly, using the recession as an excuse.

Senator Feargal Quinn: We had an interesting debate on dairy farming last night. The Minister with responsibility for food and agriculture — I always place food before agriculture — made an interesting contribution to the debate. What concerned me was the belief that these problems can be solved by the Government. What also concerned me was the interesting view on the Common Agricultural Policy in the book issued by the Irish Farmers Association and the idea that production of food will be maintained irrespective of whether customers want it. The economist, Mr. Jim Power, attended a meeting of the Joint Committee on Agriculture, Fisheries and Food and referred to 100,000 jobs in food production being lost in the next two years.

There seems to be some belief among farmers and in the Government that these problems can be solved by Government. They can be solved only by customers and by people deciding what products they want and will buy. If we decide to buy imported products, jobs will be lost. If we decide to buy products that we want to keep on the shelves, they will remain on the shelves as long as we buy them. The answer is not in the Government's hands, it is in the hands of those who live in Ireland — the citizens. If we want to keep those goods on the shelves, we must buy them. We must refuse to buy substitute products from elsewhere. Customers have a choice of what supermarket to go to. If a supermarket has decided to remove Irish products from the shelves, customers should decide to shop elsewhere where these products can be found. The threat to which Mr. Power refers is if all supermarkets follow what one supermarket chain has done, we will lose 100,000 jobs in the next few years. The answer is in the hands of consumers and customers. We can solve this problem, not politicians.

Senator John Hanafin: I share the views of some previous speakers, in particular on supermarkets with a large and growing share of the market not stocking Irish and local products. I am thinking of the two German discounters who give very good value. As an ordinary consumer, I must leave the shop and go elsewhere to buy milk locally. I would like to buy milk from Thurles but it is not available there. Only one type of milk is available and it is not sourced in the Republic of Ireland. If the supermarket sources local products, even if it is more expensive, I will buy it there. I want to know what the supermarkets are doing to support essential local commodities. The dairy industry is going through a crisis and we must support local industry.

I refer to the IMF support for the National Asset Management Agency, NAMA, model. Although the Opposition insists on taking the worst point of the recession, ground zero, and saying that this will not work, the IMF has now given its *imprimatur* to NAMA.

Senator Jerry Buttimer: It has not.

An Cathaoirleach: No interruptions, please. Allow Members the opportunity to speak.

Senator John Hanafin: The reality is that the Opposition will read it the way it wants to read it, as always.

Senator Alex White: Has Senator Hanafin read it? I can pass over a copy.

Senator Fidelma Healy Eames: It is not yet operational.

An Cathaoirleach: No interruptions.

Senator John Hanafin: I would like to have that fine debate where the Opposition will outline how it will make cuts €20 billion, make savings and changes to taxation——

Senator Jerry Buttimer: What about Private Members' business next week?

Senator John Hanafin: ——and show independently audited statements on how the €20 billion deficit would be tackled.

Senator Liam Twomey: The Government cannot even do that.

Senator Nicky McFadden: Senator Walsh told us not to be political and this is very relevant. If Fianna Fáil had put the national interest first in recent years, we would not be in this situation. The Minister for Finance, Deputy Lenihan, was conciliatory and admitted the economy had been overheated from 2001 to 2003. He has always said that this was the case. He accepted what the International Monetary Fund has said. He is taking responsibility and I applaud him for the way he spoke this morning. Fine Gael has always supported the good ideas this Government developed. As spokesperson on social and family affairs, my concern is the 15.5% of people who will be unemployed and how we will support them. The IMF is saying we must reduce spending. If that is the case, how will we support those who are unemployed?

We must keep money in the economy and therefore the banks must lend to small businesses. That is the biggest issue. Banks are talking the talk but are not lending money to small businesses. Each job is worth €20,000 to the Exchequer. We must safeguard jobs and keep people employed. This House needs to hold good debates on how we will fix this country. It is not about sparring across the floor of this House. I agree with Senator Walsh but he should practise what he preaches.

Senator Ivor Callely: Like my colleague Senator Hanafin, I welcome the IMF report, the encouraging aspects of it and that the views and comments of the Minister for Finance are in line with the IMF. The actions being taken by the Government in the marketplace seem to be correct, even though we are in uncharted waters. Many people are experiencing financial difficulties in this terrain. I have referred to the importance of making funds and credit available to small and medium-sized enterprises. I have made comments last week and this week and I will continue to do so until we make progress.

There is no structure similar to the money advice and budgeting service, MABS, which is another important area, for small and medium-sized enterprises. Can the Leader tell Members what support is in place for MABS? What type of waiting lists does it have? Is MABS satisfied that sufficient support exists to help it address the avalanche of cases before it? We understand that there has been an explosion of cases for MABS. It is important that we are satisfied that we are giving it sufficient support to respond to the need.

Senator Ivana Bacik: I support other colleagues, Senators Healy Eames, Hannigan and Ormonde, who called for a debate on prison policy, which I called for yesterday. It is especially urgent that we debate it given the announcement yesterday by the Minister for Justice, Equality and Law Reform that plans for the prison at Thornton Hall will go ahead and that the new prison will be up and running in five years. Given the level of uncertainty about the proposed development at Thornton Hall, the announcement must be taken with a large pinch of salt.

One welcome point is that the number of places proposed to be built is to be reduced, from 2,200 to 2,080, but there must be a debate on why we need extra prison places when, as colleagues on all sides, including Senator Mary White, have said, there is a question of whether we are locking up too many people when there appears to be little prospect of rehabilitation of our prison inmates. I urge strongly the holding of a debate on prison policy with a view to considering decreasing our incarceration levels and achieving greater levels of rehabilitation through other, non-custodial sanctions. I would welcome such a debate.

I also call for debates arising from two committee meetings yesterday. The first was the initial public meeting of the sub-committee of the Oireachtas Committee on Justice, Equality,

[Senator Ivana Bacik.]

Defence and Women's Rights dealing with the participation of women in politics. I am the rapporteur to that sub-committee and it was my initiative. It is chaired by Deputy Kenneally and our meeting yesterday had contributions from three women who are former Members of the Oireachtas and who had a ministerial capacity. It was very interesting to hear about their experience and the obstacles women face in politics. I have called for such a debate in this House. We will report from the sub-committee in the autumn and I hope we will have a debate on that report on women's participation at that point, given our very low levels of participation by women in parliamentary politics.

When will the climate change Bill be introduced in this House? There was a debate at the meeting of the Joint Committee on Climate Change and Energy Security yesterday where Mr. Mike Childs of Friends of the Earth in Britain made an address dealing with the experience of the British law on climate change. When will we see similar legislation in this country?

Senator Paudie Coffey: One of the main points of the IMF report is that unemployment will reach 15.5% by 2010. This morning, while we began speaking in the Chamber from 10.30 a.m., 178 workers in the ABB transformers plant in Waterford city were called into an emergency meeting to be told their jobs will be gone by this time next year. All Senators should reflect on this devastating news for workers and families; similar events are occurring in all our constituencies.

This morning as we speak — Senator Leyden was hyperventilating and Senators from all sides of the House were sparring, as some have said — jobs are being lost by the minute. Not only will 178 jobs go but there will be consequential losses due to the service subcontractors for this very important Waterford company.

Will the Deputy Leader provide for a question and answer session with the Minister for Finance or the Minister for Enterprise, Trade and Employment? We could have a frank question and answer session on how we can all contribute across parties to a recovery plan to protect existing jobs and create others. We must discuss how to introduce stimulus to our economy. The devastating news we hear every morning is killing our economy and our social fabric. Unless we halt that decline and come up with positive ideas in this Parliament, the matter will worsen on a daily basis.

I appeal to all sides to get constructive on this. This morning's news, which I am upset about, will cause problems for families. I know every Senator feels the same as I do but we must start giving people hope. I appeal to the Deputy Leader to provide for a question and answer session here so the Seanad can become relevant.

Senator Mary M. White: Hear, hear.

Senator Nicky McFadden: Well done.

Senator Rónán Mullen: I agree with Senators Bacik, Mary White and others on the prisons issue. I have been saying for a long time that we must think smarter on how we operate our prison system and what our priorities should be. Unless we take seriously the need to rehabilitate offenders rather than punish or deter, we will store up problems for ourselves in future.

Senator Fidelma Healy Eames: Hear, hear.

Senator Rónán Mullen: I agree with Senator Bacik about the need to promote alternatives to custodial sentences, in particular for non-violent offenders. We should have a debate on such matters here soon.

Does the Deputy Leader agree that we are very good in this country at being part of the herd mentality and going along with issues when we should object to them and when it is too late, some of us play the blame game? We have seen this with the economy. Despite Deputy Joan Burton's valiant efforts on "Morning Ireland" this morning, I could not avoid the conclusion that when the hard questions needed to be asked, nobody was questioning how the economy was being run. People were quite happy to go with the flow of things.

Senator Fidelma Healy Eames: People were asking questions.

Senator Nicky McFadden: Deputy Richard Bruton was asking them.

Senator Rónán Mullen: People are now playing the blame game.

An Cathaoirleach: There should be no interruptions.

Senator Rónán Mullen: There were honourable exceptions.

Senator Fidelma Healy Eames: The Senator should name them.

Senator Rónán Mullen: I am not satisfied that there was a clear distinction in what was being proposed among the different parties in the House. We have seen such behaviour with regard to the Ryan report as well because we only hear the voices of objection when it is too late. Senator Quinn spoke this morning about groceries and retailing; unless the entire community becomes more discerning, it will be too late to complain later.

Does the Deputy Leader agree there is a bare-faced cheek in the reaction of Independent News & Media to the award in the Monica Leech? For it to say that this award, which comes on foot of its egregious behaviour, is another example of the pressing need for a fundamental review of our defamation laws is like——-

An Cathaoirleach: That case is still in the courts.

Senator Rónán Mullen: It is like somebody who has been convicted of a serious drink-driving offence saying——

An Cathaoirleach: I do not want any comment on a case.

Senator Nicky McFadden: Is it still before the courts?

Senator Rónán Mullen: ——that we need to ease the penalties for drink driving.

Senator Maurice Cummins: Hear, hear.

Senator Rónán Mullen: We should acknowledge the comment as being outrageous.

An Cathaoirleach: Nobody should comment on a case still before the courts, whether the comments are good, bad or indifferent. I expressed this view to all Members in the past and they should not get involved in any case.

Senator Paul Coghlan: The case is over but there will be probably be an appeal.

Senator Nicky McFadden: It is not over.

Senator David Norris: It is on appeal.

Senator Jerry Buttimer: I join with other Senators in asking the Deputy Leader to facilitate a debate on the IMF report, which is far from an endorsement of the Government. It states that the economy will contract by approximately 13.5% from 2008 until next year, with unemployment reaching 15.5% and bank losses having the potential to rise to €35 billion.

Senator Coffey is right and I ask the Deputy Leader to bring in the Ministers for Enterprise, Trade and Employment and Finance to have an all-day debate on unemployment. That is the single biggest challenge facing us and we are talking about the lives of ordinary people struggling and queuing for social welfare payments as they cannot repay mortgages or get credit from banks. The Government is in charge and dictates policy and if we lose sight of that, we may as well put up a "for sale" sign, lock the doors and go home. We should have that debate as early as possible.

Will the Deputy Leader facilitate a debate on sport in this country? The Olympic Council of Ireland and the Irish Sports Council are fighting and the Athletics Association of Ireland, which has a dispute with its chief executive, was before a committee yesterday. Sport is a major component of Irish social life and we should have a debate to examine it in root and branch detail and create better efficiencies in its administration. We must help our athletes and sporting personnel become better in their chosen field. I am worried that neither the Minister responsible nor the Government has the policies, initiative or interest to do this. We should not have these disputes in sport as it should be about the pursuit of excellence. I have asked for this debate on numerous occasions and we have not had it yet. I hope it can be facilitated.

Senator Dan Boyle: Senator Twomey, by placing an amendment to the Order of Business, asked for a debate on the health services and confidence in its chief executive and board. On a Thursday sitting in particular, it is virtually impossible to get someone from any Department to respond on such short notice. I will undertake to ensure such a debate is held at the earliest opportunity.

The main thrust of comments from Senators Twomey, O'Toole, Alex White, Leyden, Regan, Walsh, Norris, Ó Murchú, Hannigan, Ormonde, Coghlan, Quinn, Hanafin, McFadden, Callely, Coffey, Mullen and Buttimer related to requests for ongoing debates on the economy, particularly in light of the IMF report. We have regular debates on the economy in this House and there will be a debate on a financial Bill following the Order of Business today. The IMF report could provide good scope for debate and I will see if it can be put on the Order Paper as quickly as possible.

Private Members' time next week is allocated to the Green Party and we will strive to have a debate on the economic and social cost of unemployment. I hope all Members will enter into it in a suitable spirit and address the concerns expressed on the Order of Business today, particularly by Senators Coffey and McFadden.

It is possible to interpret the IMF report in many ways but I am struck by the comments of Senators O'Toole and Mullen about the need to have appropriate context in having the debate. In the general election in 2007, all political parties put forward manifestos which promised continued economic growth and much of the debate we are hearing now argues that apparently the economic collapse and international recession we are now experiencing was well known and signposted, with many in the political system warning about it. They were not warning about it in 2007. They were promising that whoever entered——

Senator Fidelma Healy Eames: Fine Gael said it before the general election in 2007.

An Cathaoirleach: The Deputy Leader, without interruption.

Senator Dan Boyle: In 2007, they were promising exactly the same in terms of their political programmes. They were promising economic growth of 4.5% per year, increased public expenditure——

(Interruptions).

Senator Dan Boyle: ——and continued decreases in taxation.

(Interruptions).

An Cathaoirleach: The Deputy Leader, without interruption.

Senator Dan Boyle: Whatever about the flaws in policies, of which I have been an ardent critic, they were policies which were mirrored by Opposition parties.

Senator David Norris: They were.

Senator Dan Boyle: On the question of where we go from here, which is the more important and essential one, I have regularly called for a common approach on these issues. However, for those who want to form an alternative Government, it is important they take a consistent approach on these matters. I would like to see the two main Opposition parties speaking with one voice on how they would deal with the banking situation——

Senator Alex White: On a point of information——

Senator Fidelma Healy Eames: Those on the Government side do not even speak with one voice.

Senator Alex White: On a point of information——

Senator Dan Boyle: ——public expenditure, unemployment and the public service.

An Cathaoirleach: The Deputy Leader, without interruption.

Senator Alex White: Will the Deputy Leader take a point of information?

Senator Dan Boyle: On all of these questions, there is a clear diversion and a clear dichotomy——

Senator Alex White: Of course, there is.

Senator Dan Boyle: ——and no consistency whatsoever.

Senator Alex White: Of course, there is.

Senator Dan Boyle: In terms of a democratic alternative for the people and offering hope, there must be——

Senator Alex White: What about consistency with Fianna Fáil before the general election?

An Cathaoirleach: Senator Alex White——

Senator Alex White: Did the Green Party have differences with Fianna Fáil before the general election?

Senator Dan Boyle: There must be some clarity of approach——

An Cathaoirleach: The Deputy Leader is replying.

Senator Dan Boyle: ——and consensus to reach a common approach.

Senator Alex White: Did the Green Party have differences with Fianna Fáil before the general election?

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

Senator Liam Twomey: On a point of order, when the Deputy Leader responds to questions asked during the Order of Business, does he have free reign to attack Opposition parties or must he respond to the questions asked in a non-partisan way?

An Cathaoirleach: That is not a point of order.

Senator Liam Twomey: Does he have free reign to say what he likes, do what he likes——

An Cathaoirleach: The content of his reply is a matter for the Deputy Leader. He is replying to the questions asked by Members.

Senator Liam Twomey: I was just asking.

An Cathaoirleach: It is not a point of order.

Senator Alex White: There is no agreement between Fine Gael and the Labour Party. There is no Fine Gael-Labour Party position.

An Cathaoirleach: The Deputy Leader, without interruption.

Senator Dan Boyle: These very important issues——

Senator Alex White: The Deputy Leader should write it down.

(Interruptions).

An Cathaoirleach: Respect the Deputy Leader's——

Senator Alex White: The Deputy Leader should write it down.

An Cathaoirleach: Respect the Deputy Leader's——

Senator Dan Boyle: I would like to see——

(Interruptions).

Senator Jerry Buttimer: The Deputy Leader should read——

Senator Fidelma Healy Eames: The Deputy Leader should read the Government amendment to last night's Private Members' motion on the dairy industry.

An Cathaoirleach: I will adjourn the House. Members are totally out of order in interrupting the Deputy Leader when replying.

Senator Jerry Buttimer: He is lecturing us.

An Cathaoirleach: Members had an opportunity to speak. I will ask Senator Healy Eames to leave the House if she keeps interrupting. It is not good enough. Over the years in this

House, Members have respected the Leader and the Deputy Leader, although they might not agree with the reply.

Senator Alex White: On a point of order, I accept what the Cathaoirleach said about respecting the Leader and the Deputy Leader. However, if the Deputy Leader uses this opportunity to direct political charges across the Chamber which cannot be answered, it places Members of the Opposition in a very difficult situation. It is one thing to respond——

An Cathaoirleach: It is not——

Senator Alex White: This is an issue of order.

An Cathaoirleach: It is a procedural matter.

Senator Alex White: It is an issue of order. The point of order is that if the Deputy Leader, in response to the Order of Business, makes direct political charges across the floor, not even through the Cathaoirleach, it is unreasonable in any parliament that they cannot be answered.

An Cathaoirleach: All Members should speak through the Chair and not across the floor.

(Interruptions).

An Cathaoirleach: I ask the Deputy Leader to continue to reply to the Order of Business.

Senator David Norris: He should continue in his usual dignified manner. He is totally right in what he is saying, and I am on the other side of the House.

Senator Dan Boyle: In essence, that is what is at the heart——

Senator David Norris: I am on the other side geographically.

An Cathaoirleach: Please allow the Deputy Leader to speak. I am surprised at Senator Norris because he is an intelligent man.

Senator Dan Boyle: Although I take the Order of Business very infrequently, as I understand it, my purpose is to respond to the questions I have been asked. When those questions constitute a political charge, I know of no other way to respond.

Senator Alex White: Then the Deputy Leader should be accurate in what he says.

An Cathaoirleach: I ask the Deputy Leader to conclude.

Senator Dan Boyle: To go back to the calls for a debate on the IMF report, which I have accepted should be debated, it is clear that those who have spoken from an independent perspective, and not from the perspective of the Government or the main Opposition parties, have said the report refers to flawed policies which occurred between 2002 and 2007, in particular, but that it also states that the decisions which have been made, and which will be made, while they are unpalatable and unpopular, are essentially the right decisions.

Senator Eugene Regan: So everything is okay.

Senator Dan Boyle: The debate needs to be conducted on those terms.

Senator David Norris: If the Government had listened to me, it would have taken those decisions earlier.

Senator Dan Boyle: Senator Coghlan asked about the status of the National Asset Management Agency Bill. Much detailed work has gone into this Bill. I have been lead to believe that the heads of the Bill comprise 77 pages. It is expected that the Bill will be completed this month. A decision will have to be taken on when the House reconvenes to deal with it. However, I accept what Senator Coghlan said about the need to deal with it speedily because it is necessary that clear signals are sent in regard to the need to repair our financial services system. I also accept the point made by Senator O'Toole that we also need to address the other areas of economic concern, in particular unemployment. I hope Private Members' time next week will provide Members will an opportunity to debate that issue.

Senator Norris spoke about the need to congratulate our colleague, Senator Shane Ross, on his award of journalist of the year. I am happy to do so even if he does not always write pleasant things about me or my party.

Senator David Norris: He does not write about me at all.

Senator Rónán Mullen: That is the worst offence of all.

An Cathaoirleach: Members should not interrupt.

Senator Dan Boyle: Senator Norris made a request in regard to the third anniversary of a Palestinian detainee which I will pass on to the Department of Foreign Affairs.

Senator David Norris: An Israeli detainee.

Senator Dan Boyle: I apologise.

The Senator also spoke about what continues to be one of the major problems facing us which was alluded to by Senator Bacik in her call for a climate change Bill. What we are experiencing in the economy is unfortunately sidelining what is still the most important global issue about which not much is being done. It is still the Minister for the Environment, Heritage and Local Government's intention to present a climate change Bill to coincide with the Copenhagen conference in December and that both Houses will have an opportunity to discuss it.

Senator Healy Eames criticised the second home levy. I am not sure what can be done in this regard. We need to expand the base of local government finance. I expect that when the Commission on Taxation speaks about broader reforms in terms of taxes on property that the Opposition will react in a similar knee-jerk fashion and what we need to do to broaden our tax base will become even harder as a result.

Senator Healy Eames's point about the car industry needs to be addressed in a wider debate. I am not too sure why she believes we have an indigenous car industry. We do not make cars but import them. It is a retail industry.

Senator Fidelma Healy Eames: That is what I was talking about.

(Interruptions).

Senator Fidelma Healy Eames: Does the Government want to get rid of that too?

Senator Dan Boyle: In terms of how it affects our balance of payments——

Senator Liam Twomey: It is a car industry.

Senator Dan Boyle: We import cars. It does not help our economy in terms of our balance of payments. One needs to understand that.

Senator Liam Twomey: So one can bring cars in from Northern Ireland.

Senator Dan Boyle: It affects our economy in terms of the people employed in the industry.

Senator Liam Twomey: Bringing cars in from other jurisdictions affects our economy.

Senator Fidelma Healy Eames: Does the Deputy Leader agree there is a need for a debate?

Senator Dan Boyle: Several Senators raised the issue of prison policy. Senators Healy Eames, Bacik, Ormonde, Hannigan and Mullen referred to the Amnesty report which could be a good basis for a debate. I agree with the views of Senators who spoke about the need to look at non-custodial sentences. I do not believe the value of a society can be measured by the number of people it locks up. It would be helpful to have such a debate.

In regard to decisions on Thornton Hall, the House should probably welcome the fact the Central Mental Hospital will not now be part of that development and there will no longer be a link between a mental health facility and a prison.

Senator David Norris: It is very welcome.

Senator Dan Boyle: The need to build a new prison is as much about the need to replace unacceptable prison spaces and I hope that point will be made in any such debate.

Senator Glynn spoke about the need for the Minister for the Environment, Heritage and Local Government to come to the House to talk about planning enforcement and how unnecessary delays are having an impact on the local economy. That request will be made to the Minister. The House will soon have an opportunity to debate new planning legislation when many of these issues can be raised.

Senator Quinn, reiterating a point he made last night about the dairy industry, referred to recent comments by the economist Jim Power and the decision by the Tesco chain to source its food from outside the country which will have an impact on Irish jobs. I agree there is a need for a debate and direction on this matter which I will put to the Leader when future business is planned. Senator Hanafin also requested a debate on the matter.

Senator Callely requested detailed statistics concerning MABS which I do not have to hand, but I will make sure he gets them. He called for a debate in the light of the difficult financial situation in which people find themselves when they lose employment. Senator Coffey, in calling for a debate on employment, specifically referred to a local announcement in Waterford and the effect it would have.

I cannot speak on one point raised by Senator Mullen about an ongoing court case as the Cathaoirleach has ruled on the matter. Senator Buttimer called for a debate on sport which is necessary, would be timely and for which time should be made available.

Senator Liam Twomey: Did the Deputy Leader say it would be virtually impossible to get a Minister on a Thursday afternoon to debate a crisis matter?

Senator Dan Boyle: I said it would be difficult.

An Cathaoirleach: An amendment has been proposed to the Order of Business by Senator Twomey: "That a debate on the health service, including the board of the HSE, be taken before No. 1."

Amendment put.

The Seanad divided: Tá, 21; Níl, 24.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Toole, Joe.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.
MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Buttimer and Cummins; Níl, Senators de Búrca and Wilson.

Amendment declared lost.

Order of Business agreed to.

Financial Measures (Miscellaneous Provisions) Bill 2009: Second Stage.

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

An Leas-Chathaoirleach: I welcome the Minister of State at the Department of Finance, Deputy Mansergh.

Minister of State at the Department of Finance (Deputy Martin Mansergh): This Bill is a miscellaneous legislative package and contains a number of distinct and individually important provisions. Broadly, it may be broken down into four distinct parts, namely, a provision to give effect to the continued operation of existing direct debit mandates after the introduction of the single euro payments area direct debit scheme; provisions for the transfer of assets of certain pension funds to the National Pensions Reserve Fund, including the pensions funds of the Institute of Public Administration and the ESRI, included through a Dáil amendment; a provision to allow the Minister to extend the period for which financial support can be provided under the Credit Institutions (Financial Support) Act 2008; and a number of amendments to other Acts.

12 o'clock

Section 17 of the Bill is an enabling provision to allow in the near future for the extension of the guarantee contained in the Credit Institutions (Financial Support) Act 2008 beyond the current expiry date of 29 September 2010 by ministerial order. I emphasise that the implementation of this enabling provision is not unfettered and includes a number of important oversight mechanisms. First, in making an order to provide financial support on an extended basis, the Minister must be satisfied, following consultation with the Governor of the Central Bank and the Financial Regulator, that the circumstances set out in section 2 of the Credit Institutions (Financial Support) Act 2008 continue to apply. In addition, EU state aid approval is required for any financial support provided under the Act. Moreover, the Minister, in making a scheme to provide financial support in the form of a guarantee, must secure the positive approval of both Houses of the Oireachtas in accordance with section 6(5) of the Credit Institutions (Financial Support) Act 2008. In other words, the current bank guarantee scheme cannot be extended using the provision in the Bill, unless a new scheme is approved by the Oireachtas. Senators will recall that the Minister signalled on a number of occasions, in particular on 7 April in his supplementary Budget Statement, the Government's intention to revisit the current guarantee, subject to European Commission approval and consistent with EU state aid requirements, in ways that would support banks in Ireland to access longer term finance. EU state aid approval only will be available for financial support measures that are limited in time and scope and which include a remuneration mechanism for any aid granted by the State.

I wish to address the details of each section of the Bill in turn. Part 2 pertains to direct debit instructions and mandates. Section 2 of the Bill provides for the continued operation of existing direct debit mandates after the introduction of the single euro payments area, SEPA, direct debit scheme. The SEPA direct debit scheme will be introduced from November 2009 and will be a major step change in the development of a single EU market in payment services. It will enable customers of any EU bank to set up a direct debit on their account, no matter which country they are living in, and has the potential to make travelling and working in other member states much more flexible in terms of paying utility bills, for example. A major hurdle in the introduction of the SEPA direct debit scheme is the need to ensure existing direct debit instructions continue to be valid. The Bill will enable the Minister for Finance to make regulations to provide for the continuing validity of existing direct debit instructions and for the regulations to make provision that customers be informed of the fact that their direct debits will be transferring to the SEPA direct debit scheme.

Part 3 of the Bill pertains to the transfer of assets of certain pension funds to the National Pensions Reserve Fund. Sections 3 to 14 in Part 3 contain provisions to allow the transfer of pensions funds in the universities and certain non-commercial semi-State bodies to the National Pensions Reserve Fund in return for the Exchequer taking over responsibility for the payment of pensions under these schemes which it would do on a pay-as-you-go basis. The Bill provides that the value of the assets transferred will count against the Exchequer's obligation to make a contribution equivalent to 1% of GNP to the National Pensions Reserve Fund each year. The funds to be transferred are set out in Schedule 1 to the Bill. They are the pension funds of the five older universities — Trinity College, University College Dublin, University College Cork, the National University of Ireland, Galway and the National University of Ireland, Maynooth — and a number of non-commercial semi-State bodies — Forfás, Shannon Development, FÁS, Bord Bia, the Arts Council, the Institute of Public Administration, the Economic and Social Research Institute and Fáilte Ireland's regional tourism authorities. The fund for former CERT employees is also covered. Actuarial valuations of the schemes' assets and liabilities were carried out at the end of 2008 at the request of the Department of Finance. The relevant figures will be set out later when I refer to the general government balance implications of the fund transfers.

I propose to set out the background to the measures provided for in Part 3 of the Bill. The five older universities, like certain non-commercial State-sponsored bodies, have particular

[Deputy Martin Mansergh.]

characteristics that have given rise to the need for the State to take over their pension funds. They are unique in terms of their structure and relationship with the State. It is recognised that the pension funds of the non-commercial semi-State bodies concerned which are part of the public service are ultimately the responsibility of the State. These pension liabilities must be seen in that context. I am conscious that some Members of the House represent the university sector. The universities covered by the Bill have part-funded pension schemes. Retirement lump sums and basic pensions are paid from these funds, while post-retirement increases are paid by the State on a pay-as-you-go basis. This is different from the position in respect of the pensions of the newer universities and in respect of entrants to the older universities from 2005 onwards. In such cases, benefits are paid on a pay-as-you-go basis, using the core grant provided by the State. Universities were required under the Universities Act 1997 to introduce new pension schemes based on the public service model. Since 2005 the funded schemes are no longer available to new university entrants who are subject to the new arrangements in line with the public service model.

The minimum funding standards under EU law require public service funded schemes to meet the standards set in the IORPs directive, unless they are exempted by having a State guarantee, for example. The universities concerned must be able to show that their schemes are in a position to meet the potential liabilities arising. Alternatively, the State could clarify its supporting role to give the cover required. The situation was examined some time ago by a Higher Education Authority working group which recommended that the best way forward was for the State to initiate discussions with the trustees and administrators of the funded pension schemes in question who would then consult their members with a view to winding up these schemes and having the State take over the assets in the funds. The liabilities of the schemes would then be met on a pay-as-you-go basis in the future, with the assets transferred to the National Pensions Reserve Fund. It is not possible to predict whether the assets will eventually prove to be sufficient to meet future liabilities. This will depend on how they perform over time.

The transfer of the assets of pension funds in the universities and certain non-commercial State bodies to the National Pensions Reserve Fund, where the assets will be managed as part of the reserve fund, is the most efficient way of dealing with such pension funds. Rather than having a number of relatively smaller funds attempting to manage their deficits, while at the same time meeting current pension benefit outgoings, it is preferable to have the assets become part of the overall investment portfolio of the National Pensions Reserve Fund. As Senators are aware, the purpose of the reserve fund is to meet as much as possible of the cost to the Exchequer of social welfare and public service pensions from 2025 on. As no drawdowns are allowed before 2025, the National Pensions Reserve Fund can accept periods of volatility as a trade-off for achieving a long-term return that will make a meaningful contribution to Ireland's future pension costs and the sustainability of the pension system.

The summary on page B12 of the document setting out the recent supplementary budget measures states:

> It is proposed to transfer to the Exchequer the assets and liabilities of certain pension funds in Universities and non commercial State agencies. The liabilities of the funds at the end of 2008 are estimated to be approximately €3 billion with the assets valued at €1.7 billion at that time. The current classification of these funds under EUROSTAT rules is such that the transfer of the assets of the Universities' funds and the SSB funds established under Trusts would impact positively on the General Government Balance (GGB) when received. The initial revenue and subsequent investment return would be offset in the future by the

payment of pension benefits which would be recorded as Government expenditure at the time of payment.

In line with that announcement, Part 3 of the Bill provides for the transfer of the assets of the relevant funds to the National Pensions Reserve Fund. It includes an undertaking that the State, through the individual bodies, will meet the pension liabilities on a pay-as-you-go basis as they arise, under the same scheme rules that currently apply to members of the funded schemes. A transfer order will be made by the relevant Minister, with the consent of the Minister for Finance, to give effect to the transfer of each pension fund on the conditions set out in the Bill and to set the date of effect of the transfer. The transfer order will list or otherwise reference all of the instruments or documents which comprise the scheme rules. No subsequent amendments to the pension schemes can be made without the approval of the relevant Minister and the Minister for Finance. In the case of the universities, the approval of the Higher Education Authority will also be required under the Universities Act 1997.

Where existing approved scheme rules have provided for trustees or bodies to have discretionary powers, provision is made for the continuing exercise of these powers by the relevant Minister and the Minister for Finance. The Ministers may, in certain cases, delegate that discretion to the bodies — to the Higher Education Authority in the case of the universities — if they deem it appropriate to do so. A measure is also included in the Bill to provide that the value of the assets of the funds transferred to the National Pensions Reserve Fund will be offset against the Minister's obligation under section 18(2) of the National Pensions Reserve Fund Act 2000 to make annual contributions, equivalent to 1% of GNP, to the reserve fund. That matter arose during discussions that took place in a different context earlier this year. A similar provision was included in section 6 of the Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009 which was passed earlier this year. That provision relates to investments in listed financial institutions made by the reserve fund under direction from the Minister for Finance.

Section 3 of the Bill defines terms used in Part 3. It clarifies that the assets to be transferred do not include assets covering additional voluntary contributions on a defined contribution basis. Following the transfer, the funds of additional voluntary contribution schemes will be held in a separate trust for the contributing members.

Section 4 provides an interpretation of the phrase "relevant pension scheme" both before and after the transfer of the assets in relation to a covered pension fund. This provision is important in the context of continuing the benefit structure of each scheme member following the transfer.

Section 5 provides that the relevant Minister may, with the consent of the Minister for Finance, make an order transferring the assets of a covered pension fund to the National Pensions Reserve Fund. The transfer order in respect of a particular fund will determine the date of effect of the transfer of the fund. It will also confirm the instruments and other documents underpinning the "relevant pension scheme" referred to in section 5. A transfer order shall be laid before each House of the Oireachtas with a notice published in *Iris Oifigiúil*.

Section 6 provides that the effect of a transfer order made under section 5 is to transfer the assets of the fund subject to the transfer order to the National Pensions Reserve Fund. It also provides that any trust deed relating to the assets of the fund is terminated and that the trustees and bodies cease to be liable for anything done in relation to the fund on or after the date of effect set out in the transfer order.

Section 7 provides for the continued operation of any pension scheme for which a transfer order has been made, subject to the provisions of the Bill. It also provides that, following the

[Deputy Martin Mansergh.]

transfer, the board of directors or governing body of the State body or university in question becomes the administrator of the pension scheme. This section also makes provision for the continuation of scheme membership for those who were members on the date of transfer.

Section 8 provides an exemption from any form of taxation for any assets transferred under a transfer order. Section 9 provides that a transfer order has effect, notwithstanding any provision in the Pensions Act 1990. It also provides that, following the date of a transfer, the 1990 Act will continue to apply to a relevant scheme to the same extent as it did prior to that date in order that the protection of the Act will apply to members following the transfer. I refer to the right of appeal in the event of a dispute, for example.

Section 10 provides that assets transferred to the National Pensions Reserve Fund pursuant to a transfer order shall be taken to be in satisfaction or part-satisfaction of the obligation of the Minister for Finance under the National Pensions Reserve Fund Act 1990 to make contributions to that fund.

Section 11 provides that any discretion contained within a covered pension scheme in relation to rights and benefits of members, either individually or collectively, shall, after the making of the transfer order, be exercised by the relevant Minister and the Minister for Finance, who in turn may delegate the exercise of the discretion. Section 12 provides, subject to the provisions of this section, for the continuation of obligations of members and employers to make contributions to the scheme and for the bodies to pay benefits relating to the scheme in relation to any covered scheme after a transfer order has been made. Section 13 provides that section 25(7) of the Universities Act 1997 and the Fifth Schedule to that Act, which provide for the approval of the terms and conditions of any university superannuation scheme, continue to apply in relation to a covered pension scheme after a transfer order has been made.

Section 14 provides that nothing in Part 3 of the Bill or in any transfer order affects the jurisdiction of the Pensions Ombudsman or procedures relating to internal dispute resolution established under section 132 of the Pensions Act 1990. If a relevant pension scheme confers on a Minister the function of settling disputes, the relevant Minister continues to have that function after the making of a transfer order.

Part 4 deals with guarantees by Minister for Finance. Section 15 deals with construction of certain provisions when the Minister for Finance guarantees non-equity securities, etc. Section 15 amends the Prospectus (Directive 2003/71/EC) Regulations 2005 and the Investment Funds, Companies and Miscellaneous Provisions Act 2005 to protect the Exchequer by removing any legal liability on the State as guarantor of certain debt securities for the accuracy of information contained in prospectuses that relate to the guarantor and the guarantee.

In regard to the amendments of other Acts, section 16 provides for an amendment to the Central Bank Act 1989. Section 16 is an amendment required to give full effect to the transposition of the assessment of acquisitions in the financial sector directive of 2007. The directive establishes a harmonised legal framework, setting out the procedure to be applied by competent authorities when assessing acquisitions on prudential grounds in the EU-EEA. The amendment in section 75(1) of the Central Bank Act 1989 disapplies the existing regime for acquisitions in the case where the regime created by SI 206 of 2009 now applies, thus ensuring that the directive is transposed correctly and that there is no dual acquisitions regime in the State.

Section 17 provides for an amendment of the Credit Institutions (Financial Support) Act 2008. As Senators will be aware, Ireland was the first EU member state to make a guarantee available to its financial sector at the end of September 2008. Many other EU countries have since implemented bank guarantees such as, for instance, Denmark, France, Finland and Sweden. Our guarantee is a blanket two-year guarantee to 29 September 2010. Guarantee schemes in other member states in contrast apply to longer-term debt issuances. To level the playing field, it is proposed to extend the guarantee set out in the credit institutions guarantee scheme for a period which will allow banks to access new, longer-term funding and which will make a significant contribution to further strengthening of their financial standing and overall stability.

The House will understand that, as the term of the guarantee proceeds, the importance of providing scope for extending the term of the guarantee increases, so it is appropriate to provide scope for addressing the issue in this Bill. Section 17 therefore amends, via the Schedule to the Bill, the Credit Institutions (Financial Support) Act 2008 to allow for the extension of the period of financial support beyond 29 September 2010 by ministerial order. Access to longer-term funding, in line with the recent mainstream approach in the EU, will contribute significantly to supporting the funding needs of the banks and to securing their continued stability. As stated earlier, the implementation of this enabling provision is not an unfettered power and includes a number of important oversight mechanisms, not least Oireachtas approval of a draft guarantee scheme.

The purpose of the amendment of Acts in sections 18 and 19 is to address a regulatory gap in existing legislation. Currently, under the Insurance (No. 2) Act 1983, the Financial Regulator can only present a petition to the court for an order for the administration of a non-life insurance company and the appointment of an administrator. Such a petition cannot be presented for a life insurance or a reinsurance company. The option of appointing an administrator is an important regulatory tool for the Financial Regulator as it permits it to intervene when it feels that the business of the insurer is being or has been conducted in such a way that inadequate provision has been made for its debts, including contingent and prospective liabilities. In the absence of such a provision, the regulator is quite limited in what it can do when a life insurance company or a reinsurance company is in difficulty, thereby explaining why we need to make this amendment. This proposal also ensures a consistent treatment of all insurance companies, whether they be a non-life, life or reinsurance company, in relation to the appointment of an administrator.

Section 20 amends the Netting of Financial Contracts Act 1995 to insert a new definition of "party" in that Act. This amendment clarifies the application of that Act for netting agreements where one party agreement has created a security interest in favour of a third party. The Netting of Financial Contracts Act 1995 encompasses only bilateral netting agreements. However, the creation of a security interest by either party to a netting agreement could result in an interpretation that the agreement is between more than two parties. In such a scenario, the protections afforded by the Netting of Financial Contracts Act in the event of insolvency may not apply. The amended definition of "party" clarifies that it does not include any person in whose favour a security interest has been created.

Section 21 deals with amendments to the Taxes Consolidation Act 1997. In the context of the transfer of the pension funds' assets, there are a number of amendments to the Taxes Consolidation Act in Schedule 2, Part 6. These amendments are technical in nature and clarify that the assets of the National Pensions Reserve Fund, in addition to the NPRF Commission, are also exempt from Irish tax.

As outlined, the issues addressed in this Bill largely relate to some important, albeit technical, issues. The Bill will also address a number of technical reforms to various Acts falling within the Minister's remit. I trust, therefore, that the House will be amenable to a positive and constructive consideration of the Bill's provisions. I commend the Bill to the Seanad.

Senator Liam Twomey: When this legislation was going through the Lower House it was opposed by Fine Gael because considerable concern was expressed that information on the

[Senator Liam Twomey.]

proposed extension of the guarantee had not been made fully available to the Opposition for it to be able to decide genuinely whether what the Government is doing is a good or bad move. There is a sense from Government that money is limitless from some source when it comes to dealing with this crisis. Two years ago when the current Government was re-elected for a third term the country was in debt to the tune of approximately €130 billion. Now, two years later, the approximate debt of the nation is approximately €260 billion or will be that figure by the time National Asset Management Agency is fully functioning, and a further €400 billion of bank deposits are guaranteed by the State. This is not all debt but we are heading towards the Government being responsible for nearly €750 billion in moneys owed or guaranteed. It is an unbelievable change in such a short space of time. The Government is still borrowing at least €1.5 billion every month and is now guaranteeing loans for the foreseeable future for banks that want to extend their credit lines beyond two years. It may or may not be a good idea but it is difficult to say whether it is a good one.

The Government is very much acting in a way that we on this side of the House should be compliant and do what we are told because those in government know best. In some respects, they are the same individuals who got us into this mess. They were the ones who were championing Government policy for a number of years that led to the present-day scenario.

People may have understood an interesting point covered in recent media reports where a developer was being sued by a bank for his own personal assets and concern was expressed that this might undermine NAMA. There was good reason for such concern. The banks are anxious to avoid these types of cases. When the banks go after someone and appoint liquidators, some of these toxic assets have to be sold off or valued properly by the courts. We have found there have been write-offs of between 50% and 70% of the value of these assets. One can understand why the banks want to offload these toxic assets onto the taxpayer. What surprises me is that the Government believes it is its duty to take on this huge burden on foot of the fact that we are threatened by a systemic crisis. However, there has not been an adequate debate on how much what is being done is affecting us and what will be the potential outcome five or ten years from now. The banks are quiet in respect of this matter and cannot wait to offload the problem.

If the Government is serious about this legislation, the original version of which was passed last year, the bank levy should take effect immediately, not when NAMA decides that the difference cannot be made up. The legislation states a levy will be imposed on the banks if for any reason NAMA loses money. It does not take a rocket scientist or an economist to work out that NAMA will lose money. That is a certainty.

I wish to comment on the concept of chasing developers for their personal assets or money they have salted away. I am of the view that the percentage of developers who have been smart enough to protect their private assets or move certain funds into places where they will be protected from confiscation by the Government or NAMA is quite small. Most developers have gone broke and the people NAMA is pursuing will not have many private assets — other than their houses and a few luxury cars — of the sort the Government is seeking. Ours was a bubble economy and it has burst wide open. Assets previously valued at €100 million are not worth more than €30 million or €40 million now. We must face up to the fact that there has been a huge haemorrhage of value out of the economy.

It is for the reasons I have outlined that we require a debate on the direction NAMA will take. If we are serious about NAMA, the bank levy should be in place from day one. However, questions arise as to whether NAMA will actually work. Despite the guarantee and the many billions spent so far, the flow of credit within the banking system has only marginally improved. In the light of the massive cost to the taxpayer and the State, the benefits to date have been minimal. I accept some disastrous consequences may have been avoided, but we will never know might have happened.

We must engage in a serious debate on what we are doing to the nation. The Minister of State has indicated that the legislation will allow the Government to take control of private pension funds of universities and certain State organisations. Private sector pension funds have been decimated. A report published in recent days indicates that people in this country with private pensions are worse off than their counterparts in Iceland which was for some time held up as being the worst with which other countries could compare themselves. However, Ireland has now assumed that mantle.

Government representatives continue to speak as if there is no great crisis. Nothing could be further from the truth. The pensions of those in the private sector who are due to retire in the next decade have been decimated. However, the Government does not appear to accept there is a problem in this regard. It seems to hold the view that it only has an obligation towards and a responsibility for public sector workers who are due to retire. It cannot abandon those in the private sector whom it encouraged to invest in private sector pension funds, particularly in view of the fact that these individuals might otherwise have invested their money elsewhere. It cannot hang them out to dry as a result of what has happened. Public sector pension funds have lost in excess of €30 billion in value, but the Government does not appear to be paying any attention to this fact.

People who are losing their jobs or who are in a difficult position financially resent the Government's plan, which is supported by the IMF, to introduce a property tax. Those to whom I refer were encouraged by the Government to purchase houses at inflated prices. The Government received up to 40% of the value of these properties in VAT and other taxes from the resultant transactions. People who bought houses for €250,000 have seen their value drop to €150,000 or €160,000. They have seen the Government take a massive cut from the amounts they paid for their houses — the value of which has collapsed — and that Government which led them up the garden path in the first instance now proposes to impose a property tax on them. At the same time, it is wantonly throwing around billions to finance loans, guarantees and bailouts.

Those in power do not seem to understand they must do better in explaining what they are doing, not just to the Opposition but also to the people who see themselves as being hammered at every turn for a Government policy that has been bankrupt for a number of years. The Government is responsible for this self-inflicted crisis. Most Members of this House and the Lower House were present when this was happening. I was a Member of the Lower House when Charlie McCreevy and the current Taoiseach, Deputy Cowen, introduced various budgets and their sense of arrogance, over-inflated opinions of themselves and belief they were doing the right thing were difficult to take. The fact that the Government still does not accept it led us into this crisis is also giving rise to a significant level of anger among a large number of people. If the Government is determined to continue using huge amounts of taxpayers' money to guarantee the banks, etc., and to commit every citizen to take responsibility for the debts of the banks, it must be much more open in its debate on these matters with those in opposition.

The IMF's report is frightening. It indicates that the economy is going to contract by 13.5%, that unemployment will rise to 15.5% and that the losses incurred by the banks could eventually amount to €35 billion. It also refers to the billions in loans we have taken on board and the guarantees we have provided. It goes on to state we must examine the position on public sector pay and numbers, increase taxes and bring to an end the system of universal payments.

This country has never been very good when it comes to universal payments. The Government has stated people with a certain level of wealth should not have access to medical cards

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and tried to remove such cards from certain individuals over 70 years of age. Every person north of the Border has access to free GP health care. In the Republic, however, less than one third of the population is entitled to such care. In addition, a huge range of charges apply to those seeking care in the public health system. The lack of confidence among the people in that system is evidenced by the fact that until recently 70% of them held private health insurance. Government policy has been to oblige people to rely on private sector health care rather than tackle the significant structural and human resource difficulties within the public health system. This policy has failed dismally because people have either lost their jobs or taken massive wage cuts and can no longer afford private health insurance. They are being obliged to fall back on a public health system that is not working efficiently.

When the legislation was dealt with in the Lower House, the Government did not accept any Opposition amendments. If it really wants to make the legislation work and the general public to buy into what it is doing, the first ones to whom information should be given and to whom respect should be shown are those in opposition.

Senator Marc MacSharry: I welcome the opportunity to contribute to the debate on the Financial Measures (Miscellaneous Provisions) Bill 2009. By way of brief rebuttal, Senator Twomey was not present last week when many of the points he has just made were made by Senator Cannon on his behalf. Governments do not operate with the benefit of hindsight; they operate in a real-time environment. We previously enjoyed a period of unprecedented growth, but circumstances have changed to a fundamental degree in the past two years. We had an economy that certainly was over-reliant on a property boom and there is a price to be paid now. Many anticipated a soft landing. Fine Gael in its proposed programme for Government anticipated growth levels in the region of 4% per annum and predicted a range of services would have been introduced based on these figures. Throughout my seven years in the House I recall Fine Gael on many occasions calling for more expenditure on project A or more pay for sector B, but the reality is that circumstances have changed fundamentally.

Last week, on referring to Ireland as being in the eurozone, the Minister of State, Deputy Mansergh, rightly corrected me on my use of the term, “fatal flaw”. I shall correct myself and say that if there is a flaw as regards the single currency, it is that eurozone members do not control their own interest rates and aspects of fiscal policy. We had a scenario where money was available at a figure of 2% and we had 8% growth, which led in a major way to an overheating of the economy. We were all party to this. With the benefit of hindsight, had we anticipated the difficulties both nationally and internationally, certainly things would have been done differently. I dare say there has hardly been a government in the history of the world that would not have looked back on certain aspects of its performance and said, in effect: “Considering how things have played out, we would have done certain things differently.” However, that is not possible. One of the few options that would have been open to us on the property side was an increase in stamp duty, as I mentioned last week. At the time I recall a lobby, to which almost everybody was party, seeking a reduction of stamp duty. We did not control our own interest rates, but we should have been sneaking them back up to cool things off at a particular time. However, we were not in a position to do this. Perhaps that is a flaw of the single currency.

The Minister of State mentioned NAMA. During the attendance of Mr. Brendan McDonagh, NAMA’s interim managing director at the Joint Committee on Finance and the Public Service, as well as Dr. Peter Bacon, we were given an insight as regards the direction it was taking. Clearly, it will be in the business of pursuing work-outs. It will not be in the business of gathering properties in the way the Resolution Trust Corporation did in the United States in the 1980s, with the Savings and Loan fiasco, and having a fire sale. Early indications are that over a 20-year period we will have the facility of securing a land bank and ensuring we get the maximum possible return on behalf of the taxpayer for whatever assets are available. I very much hope this will be the case.

As the Minister of State mentioned, the main provisions of the Bill encompass the need to ensure legal certainty, with direct debit mandates amounting to more than €100 million a year being transferred to the new single euro payments area direct debit scheme before 1 November. This is being done to prevent major disruption to cash flow for utility companies and others, including insurance companies and mortgage providers. The Bill also seeks to transfer the assets of certain pension funds to the National Pensions Reserve Fund. As the Minister of State mentioned, the Government plans to transfer pension funds from universities, as well as those of a number of semi-State companies, to form part of the National Pensions Reserve Fund. The Minister of State went into considerable detail in outlining this provision in the Bill.

The Bill gives the Minister the power to extend the period for which financial support can be provided under the Credit Institutions (Financial Support) Act to extend the bank guarantee past 2010 with the approval of the Oireachtas and in line with EU state aid requirements. This is a very important provision in that it is vitally important that the banking system is not placed at a competitive disadvantage in accessing longer term money. This is in line with EU guidelines. As the Minister of State said, it will not be a unilateral ministerial initiative but will require a positive resolution of both Houses of the Oireachtas to give it effect. The Minister for Finance said in the Dáil yesterday that it was essential not to extend the entire guarantee but rather to modify it to ensure our institutions were not put at a competitive disadvantage. He also said it would contribute significantly towards supporting the funding needs of the financial institutions to secure their stability and enhance their potential to discharge their central role in facilitating economic activity, which is certainly to be welcomed. I heard Deputy Bruton welcome this also on the airwaves in the last couple of days. While he had some reservations about the level of scrutiny provided for, in the knowledge that it will require a positive resolution by both Houses of the Oireachtas, I am sure he and his party feel more at ease.

The Bill seeks to close loopholes in the insurance Acts. As the Minister of State said, life insurance and reinsurance companies are included in the legislation, whereby the Minister can present a petition to the courts on the place in administration of a non-life insurance company and the appointment of an administrator.

The series of financial measures we have been debating both this week and last week are all part of a step by step plan being followed by the Government to ensure economic certainty, stabilise the banks and ensure the Irish banking system can get credit flowing again. I reiterate that these steps are being welcomed elsewhere in Europe and that we have been assured we are taking the right steps decisively. The guarantee scheme extension will have to be agreed to by the Dáil and meet EU state aid requirements. Ireland is being joined by many other European countries in extending its bank guarantees. From the outset many of them had covered a period longer. Banks have to be able to compete on a level playing field with their competitors throughout the world. It is about restoring confidence in the banking system and getting credit flowing again. The extension of the guarantee will allow banks to give first-time buyers loans and to grant loans to small businesses, which is what we all want to see in these difficult times. This is essential if we are to achieve economic revival. Having the provision to extend the bank guarantee will send a positive note to investors, particularly those investing in medium term five-year bonds, and help to instil confidence in them. The Minister confirmed in the Dáil yesterday that the State was already effectively liable for the liabilities of the pension funds

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being transferred from the universities and said these funds did not constitute an additional liability as a result.

I welcome the IMF report. As the Minister said in the other House, it offers a realistic assessment of the situation in which we find ourselves. It is encouraging to see that the IMF's view concurs with ours and that we are taking the appropriate policy decisions at the right time. It is also encouraging that the IMF has welcomed the NAMA approach. I welcome the fact that it has made a number of suggestions on how we might continue to pursue the NAMA project, as well as others in terms of public sector pay and numbers and prioritising cuts in expenditure rather than focusing on higher taxation. These suggestions are to be welcomed as they are in line with much of the work already done by the Government and the matters under consideration. There is obviously the report of the Commission on Taxation to come, as well as the review of public sector numbers and the recommendations of An Bord Snip which are imminent.

I welcome the Bill. I am glad the Government is continuing on the right road, a fact underlined by the IMF yesterday. I look forward to the further measures that clearly will have to be taken, however painful they might be for all concerned, to ensure we come through these difficult times.

Senator Shane Ross: I wish to share time with Senators Bacik and Mullen.

My first point might antagonise to some extent the Minister of State, Deputy Mansergh, for whom I have great admiration. This is a very important Bill which should have been fitted into the Minister's timetable because it is a reflection on the Seanad and its Members that we do not have the real McCoy here when debating an issue as serious as this. The competence of the Minister of State is not in question; nor is his ability to understand or explain the Bill to us. When the guarantee was granted, and he may correct me, the Minister of State, Deputy Mansergh, was not there. He is not key to the important meetings that happened during the giving of the bank guarantee and this banking crisis. It is not possible for him to answer the sort of questions we ask with the fluency, knowledge and ability the Minister, Deputy Brian Lenihan, has. If the Government is serious about giving information to the Seanad, which I suspect it is not, and taking these Bills through the Seanad with a serious intent to listen to what people have to say, we should have arranged a time which suited him, if necessary, or *vice versa*. I do not blame the Minister because he has engagements. These things have to be done at short notice, but this is important. From a Minister of State we will get what we always get, notes passed to him by civil servants and him replying that way. I do not blame Deputy Mansergh.

Deputy Martin Mansergh: The Senators will get a bit more than that and they always do.

Senator Shane Ross: We may get a bit more than that, but the point is that Deputy Mansergh is not there when the important things happen, nor is he privy to all the information the Minister has. That gives the Minister a knowledge and ability to impart that information with an authority which, unfortunately, the Minister of State, Deputy Mansergh does not have. I do not want Deputy Mansergh to take this personally because he is a very competent person, but in this area he should not be here. The Minister, Deputy Brian Lenihan, should be here, or we should accommodate him.

I say this with a strong opinion that the Minister, Deputy Brian Lenihan, is making tremendous strides in a very difficult situation. He has personally made an extraordinarily good impression overseas in this crisis and he has managed it with an increasingly strong authority, which we should welcome. This is all the more reason why he should be here. As everybody in this House will know, he helped the sale of the bonds this week and a few weeks ago because of how he sold the Irish story in Europe. It was quite easy for the NTMA to raise, admittedly limited, amounts of money on the bonds markets because of the Minister's performance and because he projected and proposed a plan which people believed was well thought out and that he had a commitment there. That makes it all the more important that he should be here. Those are the optimistic signs. He is attempting to remedy a situation not of his making, so it is extremely difficult for him.

Today we are talking principally about the guarantee and its renewal, although it is symbolic of what is happening. My instinct is that they have to do it because they have to do it. To send out any signals that the guarantee would not be renewed — it is only next year — would cause an appalling run on the banks. We do not need a Bill. We know that commitment must be made and is being made.

It was an interesting idea from the IMF to introduce nationalisation and NAMA, but I will put them to one side for a minute. The banks are being given this guarantee and the bankers may begin to regard it as a licence to renew not necessarily their old practices, because I do not think that will happen, but their old power. I can see the signs already, before the bankers are properly kicked in the teeth and told where they went wrong, and in some cases penalised for going wrong, which has not happened, I can already see the signs of them regrouping. This guarantee, which is a sign to them that things are normal, underlines the fact the Government is co-operating with them in this policy.

We need action which is far more radical than saying we will fill the boards of the banks with our own people, will see they do not get up to what they were doing before, and will let them go on their merry way. I have talked to directors of banks recently, and I am sure other people have, and there is a very definite message getting through that they are independent of Government. There is a definite tension and battle between them and Government as to who is in control. It seems control is already passing from the Government, which never really seized it, back to the banks.

The Minister, who has done a magnificent job in removing the chief executives and chairmen of the banks, sometimes helped when they committed career suicide, seems with the Government to be stopping at that. It is not too difficult to get rid of these guys but when it comes to replacing them it is more of the same, which is an indication that we are just trying to get over this hump rather than thinking of anything radical. In Bank of Ireland they have replaced the chief executive and chairman with old Bank of Ireland people. The person they have put in as governor of the Bank of Ireland is extraordinarily able but is deeply imbued with the old Bank of Ireland culture. I cannot understand why the Minister did not put him into AIB if he was serious about changing. There was a vacancy there. Instead, he put two people from the AIB board and raised them up to chairman and deputy chairman of AIB. That is not a change. These are insiders getting jobs. The chief executive of Bank of Ireland was the favourite insider and he got the job. They are regrouping, eyeballing the Government and successfully staring it down.

We need to think more radically. The Minister speaks frequently and eloquently about the systemic danger which is there. He is right about Anglo Irish Bank, AIB and all these banks being systemic. Would he think that had Anglo Irish Bank, which maybe he could have let go, although I suspect not, been much smaller there would not have been such a problem? I would have thought they should be thinking that since we have only two or three big banks, we could split them and make them much smaller.

Instead of these big mergers people are talking about, AIB and Bank of Ireland getting together, IL&P getting together with EBS and all the others, why do they not make them

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smaller? This way there are no systemic banks, so if one behaves like Anglo Irish Bank, AIB or Bank of Ireland have behaved, they are so small it does not really matter. If they go out of existence the rest survive. This would remove the need for these blanket guarantees because one could let them go. They would be much less likely to go, but they could be let go.

I would be very interested to hear the Minister's comments, specifically on what is happening between Irish Nationwide and one of its debtors. I do not understand what is happening here. Irish Nationwide is apparently to sue one of its debtors for a large amount of money. That presents a serious challenge to NAMA and the whole banking system. I cannot see where it is going. There is a real danger of a domino effect because those who owe Irish Nationwide money, which says it will sue more people, owe vast and bigger sums to other banks. If Irish Nationwide puts them into liquidation or bankrupts builders, presumably the other banks will have to get onto that story almost immediately. What will happen then? There will be a collapse in property prices before NAMA even comes into existence. In effect it would gazump NAMA. We are entitled to know whether the Minister has given particular riding instructions to his own directors on the board of Irish Nationwide Building Society on this. If they persist in this, what is Government policy on it? Will it allow it to happen with a kind of domino effect resulting?

Senator Ivana Bacik: I wish to share time with Senator Quinn.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Ivana Bacik: I am always somewhat wary when I see a Bill arriving in this House with the words "miscellaneous provisions" contained in the title. It tends to be an amalgam of different issues, some merely technical, but usually with a little nugget of something more controversial buried within it. We have had several Criminal Justice (Miscellaneous Provisions) Bills which have had some rather dangerous provisions buried within them. I am reminded of a phrase used by a British political adviser about a good day to bury bad news. A miscellaneous provisions Bill is a good way to bury bad laws in some cases. I am not necessarily saying that is so in this case. However, it is always unfortunate to have a range of different issues bundled together in one Bill.

Having said that, I welcome Part 3. The provisions providing transfer of assets of certain pension funds to the National Pensions Reserve Fund are welcome. Regarding the university pension funds in particular, as one of the university Senators we had a very useful briefing from representatives of the universities about the provisions of Part 3 which we understand gives statutory form to an implicit State guarantee that already existed. I am grateful to the Irish Federation of University Teachers, IFUT, which also briefed us on the matter. Senator Norris and I attended the IFUT annual general meeting in Trinity College last week during which the matter of the Bill was raised. The provisions of Part 3 are welcome not only as they apply to the pensions of the five old universities but also to certain named non-commercial State bodies.

I want to focus on the provisions of section 17 and the extension of the guarantee that was passed by these two Houses in September. I voted against the Bill that provided for the blanket guarantee because I was wary of the nature of a blanket guarantee extending to cover what the dogs on the street knew to be a range of bad debts in particular banks, notably Anglo Irish Bank. Events have subsequently proved right those of us who were wary and concerned about the prospect of giving a blanket guarantee to all banks, in particular Anglo Irish Bank but also other banks with shabby practices that have since come to light. It would have been very dangerous to give the Minister any open-ended power to extend the period of the guarantee.

Although the Bill provides for an extension to the blanket guarantee, I am glad there are oversight mechanisms as stressed by the Minister of State. Notably the Minister must secure the positive approval of both Houses of the Oireachtas were he to extend the term of the scheme. However, I reiterate that I am concerned about the blanket guarantee.

I am not sure whether the Minister of State has ever attended a "Leviathan Political Cabaret". While economics is not usually the subject of light entertainment, the Minister for Transport, Deputy Dempsey, attended the "Leviathan Political Cabaret" last night. It was chaired by David McWilliams who has been one of the economists to argue against the nationalisation of Anglo Irish Bank and for letting it go. Senator Ross has already mentioned the idea of letting go banks that are not of systemic importance. Last night I was very persuaded by David McWilliams's argument that Anglo Irish Bank could have been let go because it is not of systemic importance. I would like to hear the views on the Minister of State on this. The stakeholders in Anglo Irish Bank, the pension funds, would have been covered against losses and the main debtors were, as we now know, a mere handful of large developers. What would have been the risk in letting Anglo Irish Bank go? Why have we simply nationalised the worst of the bad banks? Why do we not instead consider temporary nationalisation of the banks that are of systemic importance to us as ordinary taxpayers?

Senator Feargal Quinn: I thank Senator Bacik for allowing me a few minutes to speak on the Bill. I wish to quote from yesterday's IMF report which stated: "The proposed National Asset Management Agency is potentially the right mechanism to separate the good from the bad assets." The Government is right to think it is moving in the right direction because the IMF also suggested that risk sharing measures be considered on pricing bad loans so that "the taxpayer does not bear a disproportionate burden of the costs cleaning up the banks". It appears to be going in the right direction and the Government can take some credit from that.

I share Senator Bacik's concerns over a Bill with "miscellaneous provisions" in the title. The fundamental problem is that the Government now wants to extend the bank guarantee without performing any investigation into what went wrong with the banks and why. It wants to introduce measures so that such a catastrophe will never happen again. The Government seems to have no long-term strategy in this area. I accept it is taking time to introduce NAMA and perhaps it will do all that. The Government is ploughing ahead with NAMA and yet it has not had that investigation into the banks. How does that read to the international community?

In essence it seems that the banks cannot survive without some support. It may be correct that it was wrong to rescue Anglo Irish Bank. In a recent article in *The Irish Times* Brian Lucey pointed out the Government seems to have the European Central Bank over a barrel over the threat to the euro and as a result is counting on indefinite support for the Irish banking system. When will the Government address our banking problems head on and admit that perhaps they will need to be nationalised? I would hope that will not be necessary. However, the IMF has suggested that they may need to be nationalised for a few years. That is what I have been hearing from people with decades of real experience in banking. To those of us without the same experience it seems as if we are going all the way to 2012 with half measures so that the stigma of bank nationalisation would be avoided even though that may be the outcome we need to face up to in the end.

1 o'clock

We need to address our banking crisis with much more vigour and implement a proper investigation into the banks. That is how we can begin to regain the necessary confidence in banking. I urge the Government to carry out that investigation and state it recognises what went wrong. If it was the fault of the Government of the time, let us admit it. However, let us ensure we regain that confidence as quickly as possible.

Senator Larry Butler: The Bill deals with pensions, direct debit mandates, institutions, non-commercial State bodies and the National Pensions Reserve Fund. I cannot let some of the things mentioned by previous speakers go unchallenged. I heard Senator Bacik mention that we should have allowed Anglo Irish Bank to go. Every Member of the House has a responsibility to the taxpayer. We need to make decisions in the best interests of the taxpayer. Once we introduced the guarantee for bank deposits we were committed totally to the taxpayer. On that basis it would have cost the taxpayer €60 billion if we had allowed Anglo Irish Bank to go. The argument to save it is compelling. The IMF agrees that the Government is taking the correct action and that NAMA is the right vehicle to deal with non-performing debt. Of the €90 billion, some €55 billion is performing. This means that NAMA would be financially sound even with a return of 2% interest on the €55 billion. That would ensure NAMA was functioning and not costing the taxpayer. NAMA will look at an investment of between 12 and 15 years and it is reasonable to expect that land prices would have risen substantially over that period. They may not get back to exactly where they were, but they will certainly improve. Some 30% of indebtedness to this country is outside the State, including America, the United Kingdom and Europe. I think we will see an upturn in land banks coming first from America, followed by London as a key mover in terms of land. Europe will probably be third on the list. We do not have all our investment in land at home, which is a good thing. We must examine how we will manage our pension funds. Hopefully, we will deal with them through this legislation and ensure they are properly managed. I would like to see pension funds being invested more in green domestic energy projects. Energy is one of the sectors that we will be dealing with in the coming months. As an important part of the economy, it will make us more efficient and will ensure that a new industry comes on stream for energy alone. The offsprings from that sector could create over 80,000 jobs.

I commend the Bill to the House. It forms an important aspect of the corpus of legislation that has already been introduced and which we are now fine tuning. I am glad to see the insertion of a provision whereby decisions can be made on the Minister’s behalf, which is vitally important.

Senator Ciaran Cannon: Because the Leader suggested I do so, I will use this opportunity to raise one issue with the Minister, that is, to discuss the benefits that are supposedly accruing to Irish businesses from their significant investment in our banks. From my point of view and that of the business people with whom I speak regularly, there have been few benefits, if any. We have invested €7 billion in Bank of Ireland and AIB, but one would have expected at this point that some of that money would have found its way down to small Irish businesses in the form of credit. It has not, however, and it is never likely to.

The best method for assessing how the business sector is being supported by our banks is simply to pick up the phone and talk to those involved in small business. I have been doing that regularly in recent weeks. If the Minister was to argue that a sample as small as this would not be an accurate method of gauging the performance of our banks, surely he should have regard for the words of ISME’s chief executive, Mark Fielding, who said that 83% of Irish companies are finding it difficult to get credit. Mr. Fielding also said the Government should stop “pussy-footing around” with the banks and force them to free up this badly needed credit. Following the announcement of 460 more job losses yesterday, ISME reiterated its call for the banks to loosen their purse strings and free up credit for Irish businesses.

When I make contact with business people, the news is not good. I have heard nothing but despair, anger and a real sense of disillusionment with the way this Government has handled the banking crisis. Take,for example, the blocklayer I spoke to last Monday. He had not received one request for a quotation from last August until two months ago. To his surprise he then received six requests, mostly from young couples seeking to build their first homes. When he reverted to these couples with a quotation, he found that all six had been refused mortgages by their respective banks.

What about the retailer I spoke to last week who had an overdraft facility of €2,000 with a bank he had done business with for 20 years? He asked the bank to increase the facility to €5,000 so he could trade through the difficult months ahead. He was, of course, refused the facility and now faces the real prospect of closing a business that has been in his family for three generations. Or how about the announcement yesterday by one of the biggest car dealers in this country that it was to cease trading with the loss of 200 jobs? The owners of that company had employed a major accounting consultancy to produce a survival plan that would see the company trading back to profitability within three years. The accountancy firm believed the plan would work. Three different national car distributors with a combined experience of over 60 years in the motor trade, also believed the plan would work and they committed to a continued supply of cars to this dealer. However, our friends in the two major banks took a different view and refused to row in behind what was a credible and laudable effort to save 200 people from the dole queue.

I do not know how the Minister of State or I would expect anything different from our banks. Behind the soft focus TV ads with smiling families, soothing music and assurances that bankers are "on our side", one can see nothing more than the bottom line, the need to profit above all else. I do not believe for a moment that the needs of this State and its workers are foremost in the minds of these banks' board members when they sit down to discuss the future; they most certainly are not. If the Minister of State believes that Government-appointed directors will make any difference in these affairs, he is sadly mistaken. When one become a director, one's primary fiduciary duty is to the company itself, not to shareholders or fellow directors and most definitely not to the Irish people.

While our board nominees will be on the inside, they will not be able to report any information back. They will be more than aware of what is going on in the banks' boardrooms, but they will not be able to report it to anyone outside the boardroom, not even the Minister or the Minister or State.

When the Minister for Finance recapitalised our banks he secured a commitment to increase lending capacity to small and medium enterprises. Compliance with this commitment is to be monitored by the Financial Regulator. Will the Financial Regulator report on this commitment and, if so, when? We should already have had the first, comprehensive, in-depth report on the real extent of lending to small Irish businesses. I believe that such a report would not make for pretty reading.

As Mark Fielding said, it is time to stop pussy-footing around. It is time to force the banks to play their role in our nation's recovery. We need comprehensive and regular reporting on the level of banking support for Irish businesses. We also need legislation to allow Government-appointed directors to act in our best interests and to allow them to report directly to the Minister. We need real action and, most certainly, we need it now.

Senator Dan Boyle: In the dark days of October 2008 the Government response of extending the guarantee to financial institutions was met with a knee-jerk reaction that it was wrong. In retrospect it can be seen as the right approach, not only in the settling effect it had domestically but also in the way it was accepted and built upon in other jurisdictions. Listening to the Bill being debated in the other House, I was saddened to hear some of those shibboleths being maintained as objects of legitimate political debate, and that somehow there is an agenda whereby people are benefiting from decisions that have been made or from how they will be made in future.

[Senator Dan Boyle.]

This legislation outlines courses of action that need to be followed because alternatives are not available to us. The financial and economic security of the State demands that these approaches be taken. I hope that from now on debates of this nature will deal with the organisation of how this is done, rather than putting across an innuendo-laden approach to our politics, which does none of us any credit.

The guarantee which is now being extended, together with the power now being given to the Minister to extend it further, must be put in place. Those who followed the Irish example of last October went beyond what we originally envisaged in terms of a two-year guarantee. Five-year guarantees are now in place in many jurisdictions. Flexibility needs to be given to any Minister for Finance to reflect on what the international climate allows. The Bill is enabling legislation and deserves sufficient support to allow this to happen.

I listened to Senator Cannon's contribution and there is no doubt that we need to have a continuing debate on the efficacy of Irish financial institutions and where they are going individually.

The due diligence that will be completed on all institutions as a result of future legislation on the National Asset Management Agency will show that some of the smaller institutions have acted in an utterly inappropriate way in the past. The public demand to find out how the situation has come to pass must bring about appropriate action for those who were in charge of those institutions, ultimately through the legal process. Rather than talking about specific individuals and institutions, I will let those matters lie there.

The original criticisms of the introduction of the guarantee mentioned the risk that was involved to the Irish taxpayer being about €400 billion. If every institution was to go belly up immediately, that is the risk that exists. The successful operation of the guarantee to date means that this risk has been put aside. The insurance aspect of the guarantee has been very successful. The fact that it must be paid for by the institutions concerned means there is money coming into the Exchequer to allow the scheme to operate effectively. It has been unfair political and media comment to state that the €400 billion mentioned in October 2008 is money that has already been spent. The problem with this debate is that we have heard figures mentioned left, right and centre that have bamboozled the Irish voter and have no bearing in reality. There have been subsequent actions that caused the State to nationalise Anglo Irish Bank, and we could have a very detailed debate about the efficacy of that particular institution. If framed in the context of the original deposit guarantee that existed before October 2008 and had the bank then gone out of business, the cost to the Irish taxpayer would now be far greater than any sums that have been put into that bank since to provide stability to that institution and to Irish financial services.

In supporting this Bill, I ask for a greater degree of honesty about the debate. We do not have any option as public representatives but to put in place measures that bring about greater stability of our financial services. There are other issues to be dealt with, which relate to the efficacy of individuals and financial institutions, but it requires an approach to legislation like this where we do not engage in the normal cut and thrust, and that we think more clearly about the national interest in the short, medium and long term. On those grounds, I am happy to support this Bill. I have confidence in the reason the legislation is being moved and is necessary and in those who will be enabled by the Bill to act in the national interest. On those grounds, I ask other Senators to think accordingly.

Senator Paul Bradford: I would not speak with the same degree of financial expertise as some of my colleagues, but I have listened with interest to what has been said. At the very core of this debate is the attitude of the banking industry to its broad base of customers, and in particular the attitude of the banking industry to small business and enterprise. It is quite a few months since we had the all night session in this House, when the Government had to intervene to take emergency action. That was generally supported, and I think the general view of the majority of Members since then has been that we recognise the need to have a sound, secure banking industry in this country. We all deem banks to be a necessary evil, but without them, we cannot have the financial resources which we need to run our economy, so it is very important that we have a sustainable banking industry.

At all levels of society, there is great disappointment among lay people that there does not seem to have been reciprocal goodwill or generosity shown by the financial industry towards citizens working in the small enterprise side of the economy. Every politician comes across shopkeepers, publicans and entrepreneurs whose future is at the gravest possible risk as a result of the lack of finance. We must recognise that there is a particular financial equation in the banking industry and that money cannot be lent left, right and centre. However, there is a serious responsibility on our banks to respond to taxpayers' generosity by being generous in their treatment of customers and in how they look at the short-term funding of small and medium sized enterprises. I know the Minister of State has often heard this in both Houses, but I do not think we can emphasise the need for the Irish banks to respond to what is being done for them.

There are different domestic and international reports doing the rounds on Government economic policy, and we are not the final adjudicators on that. Some say the Government's policy is going in the right direction, while others will be concerned about it. The one part of Government policy that is certainly a failure is the selling to the public of the message that what is being done for the banks is necessary, and that somehow the taxpayer is getting a value for money return. On virtually every current affairs chat show, the argument is being put out that the Government is bailing out the banks but that the banks are not bailing out small industry. That is a very simplistic argument, but the Minister of State has a PR battle on his hands to prove that there is an equality of response from the financial world to what is being given to that sector of society by the taxpayer. The Government will have to redouble its efforts to ensure there is generosity shown by our banks, be it to homeowners or small business people. All the banking guarantees in the world will be of no long-term advantage to this country unless we can keep our economy ticking over at the minimum, and growing in the future.

We must avail of every possible political opportunity to pressurise the banks, which have a moral responsibility now. It is disappointing to see that in some sectors of the banking industry, there is a strutting, arrogant approach to their position. They have easily forgotten where they have come from and the decisions they took which landed the Irish economy in its current mess. We must move on and recognise that we have to work with the banks in order to preserve the economy, but an admission by the banks that they got it very wrong would be a positive step in the right direction. We could do with less of their arrogance and aloofness, and a little bit more of a positive and willing attitude to work with the Government, the taxpayer and enterprise and industry to keep Ireland Limited afloat.

I appeal to the Minister of State and the Government to keep the pressure on our financial institutions to respond generously to Irish taxpayers for what they has done for them. We need a modern, functioning and viable banking industry. Without it, we all go down the tubes. As part of the *quid pro quo*, it is not unreasonable to expect a little bit more generosity, flexibility and understanding from the financial institutions. We were very understanding towards those institutions last autumn.

Senator John Hanafin: I thank the Minister of State, who is a top attender from the Executive in this House on financial Bills and Adjournment debates. This miscellaneous provisions Bill

[Senator John Hanafin.]

covers a number of areas, including direct debit mandates following the Single Euro Payments Area direct debit scheme. It also includes provisions to transfer the assets of certain pension funds, including UCD, Trinity College Dublin and the Institute of Public Administration, to the National Pension Reserve Fund. The Bill includes a provision to allow the Minister to extend the period in which financial support can be provided under the Credit Institutions (Financial Support) Act. There are also a number of amendments to legislation.

The part of the Bill that has created some queries concerns the Credit Institutions (Financial Support) Act. The Minister signalled that this would be extended on 11 February and during debate on the supplementary budget on 7 April. Even though the Opposition parties derided the Government for its guarantee, questioned every aspect of it and some parties voted against it, it was copied and emulated in many European states. We are obliged to extend the guarantee so that our banks will not be at a disadvantage compared to other European banks. In other financial areas, some Opposition parties consider a crisis a time of opportunity. The Labour Party voted against the withdrawal of medical cards for millionaires, voted against keeping the institutions' depositors safe and voted against the nationalisation of banks. It makes one wonder what socialism is all about in 2009.

As the necessity to access long-term funding was inherent in the capability of the bank guarantee, it has become necessary to extend the time limit. Having done so, the Government has discharged its duty so that our banks will not be at a competitive disadvantage *vis-à-vis* other European countries. We have had a positive endorsement by the IMF of the steps taken thus far in respect of the banking sector. Every time an Opposition spokesperson comments on the banking sector the starting and finishing points are ground zero, the worst day of the crisis.

As Senator Butler said, there are positive signs about NAMA. One point endorsed by the IMF is that we now realise 30% of the assets are held abroad. We are conscious that the Irish economy may not start growing again until 2011. Up to 30% of assets are held in countries, including the US and the UK, where we can reasonably expect that the assets will show true value, as happened in other states that had similar crises such as Sweden and Indonesia. In such cases, the banking crisis was properly managed and the assets were taken over by those states at the correct rate. There have been damaging Opposition calls that this was done at the behest of Fianna Fáil developers. Where a bank has deposits of over €59 billion, such as Anglo Irish Bank, it is systemic to the economy. One cannot let it go under. It would be tantamount to saying we are no longer open for business. We could forget foreign direct investment and a "for sale" sign might as well go up at ports and airports. It would mean the Irish Government did not attempt to ensure the stability of its banking sector. Not only have we attempted to do so, we have ensured it and we have nationalised Anglo Irish Bank.

This Government prepared the State well during the good times. We had low national debt, the lowest tax wedge in Europe and the NTMA had billions of euro on deposit. Some ask us if we are joking and put it more crudely at times. In the House yesterday, an average comment was referred to as a Mad Hatter's comment. There is no point in being abusive in the House. I refer that to the Opposition Member concerned. It is unacceptable. We have made provision for the future. In 2002 and 2007 Opposition manifestos were in excess of the Government in an attempt to spend more money and tax less. How it can turn around with 20:20 vision and tell us that the Government should have known better when the Opposition did not is beyond me.

Minister of State at the Department of Finance (Deputy Martin Mansergh): I thank all Senators who contributed to the debate. A large number of points were raised on all sides of the House. I will deal with two general points first. Since the emergence of the crisis last autumn, the Minister for Finance has been in this House from time to time. Enormous responsibilities are on his shoulders and it is not practicable that he could be in this House every week. Article 28.4.1 states the Government shall be responsible to Dáil Éireann. There has been a division of labour, whereby the Minister takes most legislation and motions in the Dáil, assisted by me, and I take most legislation and motions in this House, although he comes here from time to time. That is a realistic position.

When I speak on legislation and motions in this House, I set out the full position of the Government, as is done in the Lower House by the Minister. I hope I have access to the distilled wisdom of the Government and the Department of Finance. I have full access to its resources on any topic that may arise but I am speaking with delegated authority from the Minister.

The second general point is that this is a miscellaneous provisions Bill. In all areas of Government it is necessary to group together provisions that are not intimately related. Otherwise, there would be a proliferation of Bills and this would take more parliamentary time. There would be less legislation in terms of content, if not in the number of Bills. The Government is often urged by Opposition Members or Independents to use the opportunity of a particular Bill to insert something else. We do not go as far as the US Congress in the practice known as pork barrelling, where entirely unrelated subjects are tacked onto Bills. A miscellaneous provisions Bill groups in one Bill a number of broad aspects, but they are all related in one way or another to the problem we face.

I confess to being a little disappointed in that, although a major section of the Bill deals with universities which are represented by six elected Members in this House, there was almost no discussion of what is a very beneficial measure relating to university pensions and those of some non-commercial State bodies. Senator Bacik was alone in acknowledging the provision.

Senator Twomey spoke about private sector pensions being decimated. I declare an interest in that my son is employed in the private sector pensions business, but nothing I have to say will be influenced by this. As an employer, the State has an obligation to provide pensions for its employees. The Government is committed to dealing with the increasing cost of public service pensions in the context of its follow-up to the Green Paper. It has been acknowledged recently in regard to private sector pensions that there are very considerable difficulties which have been building since well before the full crisis hit last autumn. The Government has been working since publication of the Green Paper on pensions to bring forward proposals to help the pensions industry. The purpose of the measures introduced in the Social Welfare and Pensions Bill 2009 and the announcement this week of the establishment of a pension insolvency minimum guarantee scheme is to help trustees of pension schemes to respond to the challenge of maintaining the viability of a pension scheme or, where that may prove impossible, to assist them in enhancing the benefits to scheme members in the event of a wind-up. The pension insolvency payment scheme is another initiative taken by the Government, but in view of time constraints, I will not discuss it in detail.

There were a couple of general points made by Senator Twomey. On one side of the equation, he indicated that the bank levy should take effect now, although this is envisaged at a later stage, should it be necessary to do so when we have emerged from our difficulties. Listening to the Senator's contribution, one would be tempted to ask if Fine Gael was suggesting the Government should guarantee all private pension funds. Is it really Fine Gael's position that it is entirely against the introduction of a property tax? It was the Fine Gael and Labour Party coalition Government in the 1980s which introduced the residential property tax.

The Senator also made comments about the health service and implied that we should have introduced something equivalent to the National Health Service in Britain. Naturally, all of these elements would have very considerable cost implications. I am not convinced that the

[Deputy Martin Mansergh.]

Senator is in any formal sense proposing any of these suggestions, but they are being dangled as alternatives. When in government, Fine Gael's position will not be as hinted by the Senator.

I agree with Senator MacSharry in his comments that if it were not for the current combination of circumstances — as much global as national — things would have been done differently. The pressures were entirely in the opposite direction and the mantra was that the country was awash with money and that the Government should have been doing far more than it actually was. If stamp duty had been lowered even more or abolished, as suggested, it would have made the bubble even worse; it would not have been a cure.

Much of the rest of the debate concerned banking issues. Reference was made to the report of the IMF which has endorsed the steps taken thus far by the Government in the banking sector. It commends our efforts at restoring financial stability through a step-by-step approach, involving the deposit guarantee scheme, recapitalisation and the creation of NAMA. The details of the NAMA legislation will be brought before the Oireachtas and debated in full. It is far more important to get the legislation right than for it to appear this week rather than next.

The IMF report states that "If well managed, the distressed assets acquired by NAMA over time could produce a recovery value to compensate for the initial fiscal outlays". The Government agrees that the purchase price of assets will be key; that is why time is being taken to establish NAMA which will be using an evaluation formula approved by the European Union. The IMF has indicated that temporary nationalisation could become necessary, but it must be seen as complementary to NAMA. The Government has already nationalised a bank and made it clear that it would only nationalise other banks as a last resort.

Senator Ross raised the legal action taken by Irish Nationwide Building Society. The objectives of NAMA cannot be fully achieved if individual borrowers are allowed to opt out. Legislation will address this and many other detailed issues. It would not be appropriate to comment in the House on legal actions taken by commercial bodies.

Most speakers accepted and supported the decisions of the Government relating to Anglo Irish Bank. There is no serious question that Anglo Irish Bank is and was of systemic importance to the Irish financial system and, in turn, the whole economy. Even if one could argue about this in an intellectual way, the risk of getting it wrong was simply far too great. As Senator Boyle pointed out, if we had got it wrong, the burden on the taxpayer would have been infinitely greater.

There is an analysis of the problems of banks and has been a range of commentaries during the financial crisis, including major international reports such as the Turner and de Larosière reports, because obviously the problem is not confined to Ireland. The Minister for Finance appeared before the Oireachtas joint committee, on which this House is represented, and discussed the Bacon report and the creation of NAMA.

The purpose of the amendments to the Credit Institutions (Financial Support) Act 2008 is precisely to enable banks to access medium-term funding of up to five years. This strengthening of the financial structure of the banks is to enable them to perform their proper role of providing credit in this economy.

A code of conduct for business lending to small and medium sized enterprises was published by the Financial Regulator on 13 February and took effect a month later. This code applies to all regulated banks and building societies and will facilitate access to credit, promote fairness and transparency and ensure banks will assist borrowers in meeting their obligations or otherwise deal with an arrears situation in an orderly and appropriate manner.

The business lending code includes a requirement for banks to offer their business customers annual review meetings, to inform customers of the basis for decisions made and to have written procedures for the proper handling of complaints. Where a customer gets into difficulty, the banks will give the customer reasonable time and seek to agree an approach to resolve problems and provide appropriate advice. This is a statutory code and banks will be required to demonstrate compliance.

As part of the recapitalisation package announced on 11 February, AIB and Bank of Ireland reconfirmed their December commitment to increase lending capacity to small and medium-sized enterprises by 10% and to provide an additional 30% capacity for lending to first-time buyers in 2009. If the mortgage lending is not taken up, then the extra capacity will be available to SMEs.

AIB and Bank of Ireland have committed to public campaigns to promote actively small business lending at competitive rates with increased transparency on the criteria to be met. Compliance with this commitment is being monitored by the Financial Regulator and officials from the Department of Finance are in regular contact with the banks concerned in regard to their progress in implementing these measures.

The Tánaiste and Minister for Enterprise, Trade and Employment recently set up a clearing group, including representatives from the main banks, business interests and State agencies, which is chaired by officials in the Department of Enterprise, Trade and Employment. The purpose of the group is to identify specific patterns of events or cases where the flow of credit to viable businesses appears to be blocked and to seek to identify credit supply solutions. Obviously, any issues or questions should be directed to the Tánaiste.

An independent review of credit availability funded by the banks but managed jointly by the banks, Government and business representatives is under way and will be completed shortly. Among the issues covered by this review will be changes in bank lending repayment terms and a comparison with customer experiences prior to the onset of the financial crisis. This review, along with the quarterly reports of the recapitalised institutions, should give a clear picture regarding the flow of credit in the Irish economy which will inform future policy.

I believe I have answered most of the main points raised.

Question put.

The Seanad divided: Tá, 26; Níl, 15.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.
MacSharry, Marc.
Norris, David.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McFadden, Nicky.
Mullen, Rónán.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

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

Question declared carried.

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

Senator Donie Cassidy: Now.

Agreed to take Committee Stage today.

Financial Measures (Miscellaneous Provisions) Bill 2009: Committee Stage.

Section 1 agreed to.

NEW SECTIONS.

An Cathaoirleach: Amendment No. 9 is consequential on amendment No. 1. Amendments Nos. 1 and 9 shall be discussed together. Is that agreed? Agreed.

Senator Liam Twomey: I move amendment No. 1:

In page 5, after line 40, to insert the following new section:

"PART 2

PROHIBITIONS

2.—Nothing in this Act shall permit the extension of any guarantee under this Act or Credit Institutions Financial Support Act 2008 beyond 31 December 2014.".

A similar amendment was discussed in detail in the Lower House. I want the Minister to comment on this amendment for the record of this House. There should be limitations with this type of legislation instead of it being left open-ended.

Minister of State at the Department of Finance (Deputy Martin Mansergh): Senator Twomey proposes to amend the Short Title and insert a new section 2 to provide the extension of the period of the guarantee under the Credit Institutions (Financial Support) Act 2008 cannot be extended beyond 31 December 2014. I am proposing in this Bill that a provision be inserted into the Credit Institutions (Financial Support) Act 2008 to provide that the Minister for Finance may, by order, provide for the extension of the period of financial support under the 2008 Act beyond 29 December 2010.

2 o'clock

As stated earlier on Second Stage, this is an enabling provision to facilitate credit institutions in raising longer term funding. The current bank guarantee scheme cannot be extended using the provision in this Bill unless a new scheme is approved by the Oireachtas under section 6(5) of the 2008 Act. Furthermore, under EU state aid rules, five years is the maximum maturity per debt that will be permitted. An order extending the current bank guarantee cannot be made without EU state aid approval and consultations with the European Commission are ongoing in this regard.

As for the Senator's proposed end date of 2014 for the period of the guarantee, he will understand that a scenario could potentially arise early in 2010 that an institution participating in any guarantee scheme allowing for longer-term issuance may wish to issue a five-year bond, subject to whatever terms and conditions might apply under that scheme. However, were the Senator's amendment to be accepted, this would not be possible without a future change in primary legislation. Allowing the Minister to specify by order the end date for the provision of financial support, as proposed in the Bill, is the most efficient way to deal with this issue from a legislative prospective rather than being obliged to return to the House with the Bill later on this year or early in 2010 to achieve this purpose. It seems sensible, given continuing uncertainty in the financial markets, to retain the flexibility provided by the approach adopted in the Bill. It is important to bear in mind that each extension of the period of financial support must be approved by the European Commission on state aid grounds. The state aid approval will limit any extension of the guarantee for debt with a maximum five-year maturity.

Amendment put and declared lost.

An Cathaoirleach: As amendments Nos. 6 and 10 are consequential on amendment No. 2, amendments Nos. 2, 6 and 10 will be discussed together, by agreement. Is that agreed? Agreed.

Senator Liam Twomey: I move amendment No. 2:

In page 5, after line 40, to insert the following new section:

"3.—Nothing in this Act shall permit the extension of any guarantee under this Act or Credit Institutions Financial Support Act 2008 to any form of Tier 1 or Tier 2 risk capital as defined under the Basel II Capital Adequacy Framework.".

While I do not wish to hold up proceedings, the Minister of State should comment on what is known as subordinated debt, which basically is when investors take a risk when investing in banks. How has this risk been affected by the fact that to some degree, Irish taxpayers are providing guarantees in this regard? Such investments should carry risk like any investment and regardless of whether one invests in a bank or a company, the taxpayer should not be obliged to guarantee such instruments.

Minister of State at the Department of Education and Science (Deputy Seán Haughey): Senator Twomey's amendment seeks to restrict the scope of financial support that may be provided under the Credit Institutions (Financial Support) Act 2008, as amended by this Bill. The amendment aims to prohibit the extension of financial support that may be provided under the 2008 Act to any form of tier one or tier two risk capital. As the Senator is aware, regulatory capital comprises tier one capital, which is largely equity and reserves, and tier two, which consists of longer-term instruments that have the capacity to absorb losses, such as subordinated debt instruments whereby the lenders' claims on the credit institution are wholly subordinate to those of all non-subordinated creditors. Current EU state aid requirements set down strict guidelines for the material scope of guarantees or the type of liabilities covered and any scheme providing financial support under the Credit Institutions (Financial Support) Act 2008 must receive EU state aid approval. For instance, EU requirements do not allow in principle for guarantees of certain capital such as dated subordinated debt.

[Deputy Seán Haughey.]

While the Minister accepts the reasoning behind the Senator's amendment which conforms to what would be required under current EU state aid rules, he is wary of specifying in primary legislation any restriction in the scope of financial support, in particular one constructed on imprecise, shifting or potentially conflicting definitions of what constitutes certain types of capital. In such circumstances, there is a clear risk that unintended definitional or other legal issues may materialise in future that might prevent the Government from providing appropriate support under the Act to maintain financial stability in the State. The Minister has stressed any new scheme providing a guarantee beyond September 2010 for longer-term liabilities would require Oireachtas approval under the Act, which includes the scope of the liabilities guaranteed. Finally, the Minister stated in the Dáil that dated debt, which is lower tier two capital, will not be part of any such extension and therefore I cannot accept the Senator's amendment.

Senator Liam Twomey: Is subordinate debt being covered as matters stand?

Deputy Seán Haughey: Yes, it is eligible for coverage.

Amendment put and declared lost.

Section 2 agreed to.

SECTION 3.

Question proposed: "That section 3 stand part of the Bill."

Senator Paddy Burke: On section 3, I wish to raise the issue of benefits. The Bill lists a number of bodies, the pension schemes of which have been transferred, including Trinity College, University College Dublin, University College Cork, National University of Ireland, Galway and National University of Ireland, Maynooth. The semi-State bodies concerned include Forfás, Bord Bia, the Arts Council, the Institute of Public Administration, the Economic and Social Research Institute, Fáilte Ireland and so forth. Does this mean the employees of such institutions now will be eligible for the same pension as that which obtains in the Civil Service or in local authorities? Most civil servants, usually when they are 65 years old, receive a full pension of half their salary as well as a lump sum of one and a half times pay, for which they are obliged to serve 40 years. Do special categories exist within some of the aforementioned institutions in which employees may be, for example, on seven-year contracts or may have special arrangements for pension purposes? Does this mean the taxpayer now will take over any special pension arrangements that differ from those which obtain in the Civil Service as I outlined previously? Will such employees now be eligible for a Civil Service pension? Will they be obliged to serve for 40 years and until they are 65 years of age before qualifying for a pension? Alternatively, does this mean the taxpayer will be obliged to fulfil special arrangements that have been made? I refer to cases in which some of those affected may have been paying into pension funds other than those of which we know involving the Civil Service and local authorities.

Deputy Seán Haughey: Section 3 defines terms in Part 3 of the Bill. The section also clarifies that the assets to be transferred do not include assets covering additional voluntary contributions on a defined contribution basis. Following the transfer, the funds of these additional voluntary contributions schemes will be held in a separate trust for the contributing members. As for the Senator's specific question, in general such pension schemes are in line with those in the public service. The Bill specifies that the schemes will continue on the same terms as on the date mentioned.

Senator Paddy Burke: I do not fully understand that. Does the Minister of State mean that if they had different arrangements, other than a Civil Service pension, these will be honoured by the taxpayer? If that is the case, the taxpayer is being exposed to future liabilities and would it not be desirable to know whether such special arrangements exist? I thought the State would be taking over these schemes and that those concerned would receive benefits that were in line with what the Civil Service provides, namely, half one's salary and one and a half times one's pay as a lump sum after 40 years' service. A number of weeks ago, Senator Twomey asked an important question about seven-year contracts. The Minister of State, Deputy Mansergh, said he would get back to him. What is the position in respect of people in some parts of the public service who get three times their final salary as a lump sum? Will similar situations arise in the case of people on seven-year contracts? If this legislation is providing that the taxpayer will have to make payments to people on seven-year contracts that are equivalent to three times their annual salaries, it will have to be examined more closely. I am not happy with the answer the Minister of State has given. We need information on this matter.

An Cathaoirleach: I am not sure the Senator's remarks are relevant to section 3 of the Bill.

Senator Paddy Burke: Section 3 spells out the new benefit arrangements. We are talking about benefits that will be paid out as pensions.

Deputy Seán Haughey: The existing schemes that cover the people mentioned by the Senator will continue to operate, regardless of whether they are better or worse. A series of orders will be made in 2009 and 2010 on foot of this legislation. One order will be made in the case of each scheme. It will be an open and transparent process. The precise rules and regulations will be outlined in those orders for all to see.

Senator Liam Twomey: I thank my colleague, Senator Burke, for reminding the House that approximately three weeks ago I asked the Minister of State, Deputy Mansergh, about the issuing of lump sum payments to people on seven-year county council contracts. I remind the Minister of State, Deputy Haughey, and his officials that I have not yet received a reply.

Deputy Seán Haughey: I will look into that.

Senator Paddy Burke: Is it not like buying a pig in a poke? The Minister of State has said that a series of orders will be outlined in a transparent manner. We do not know what will be included in those orders, however. While I appreciate it will be transparent, we do not really know what is at stake for the taxpayer. That is the problem. The contracts that will have to be honoured could well differ greatly from the arrangements that are in place in the Civil Service at the moment. We could have to honour different contracts altogether. We need to know what we are getting into. We are taking over assets on the basis of last year's prices. This year's prices could be completely different.

Deputy Seán Haughey: I reiterate that an additional liability will not accrue to the State as a result of this measure. The State is officially liable for these funds regardless of whether they are transferred. In this legislation, we are dealing with the principle that is at stake. The orders that will be made in due course will deal with the specifics.

Question put and agreed to.

Section 4 agreed to.

SECTION 5.

An Cathaoirleach: As amendments Nos. 3 and 5 are related, they may be discussed together.

Senator Liam Twomey: I move amendment No. 3:

In page 8, between lines 41 and 42, to insert the following subsection:

"(2) Before making a transfer order, the Minister shall lay before the Houses of the Oireachtas a calculation of the assets, and actuarial assessment of the liabilities and the options which the Actuary indicates are open to the Trustees to close the deficit in the fund.".

This amendment brings us back to some of the points that have been made by Senator Burke. I am not quite sure what the effect of this legislation will be. I have tabled this amendment to ensure the extent of these schemes' assets and liabilities will be made known to the Oireachtas. I appreciate that if this amendment is accepted, the information in question will not be available until this legislation is passed. When I listened to Senator Burke expressing his concerns, I wondered whether it is possible that the Government's figures, which suggest that there are liabilities of €3 billion and assets of €1.7 billion, could be wrong. We do not know whether they are accurate.

Deputy Seán Haughey: The purpose of the transfer order provided for in the Bill is to give effect, on the date of effect set out in the order, to the transfer of the assets of a pension fund to the National Pensions Reserve Fund. As the Minister of State, Deputy Mansergh, said on Second Stage, each of the funds carried out an actuarial valuation of its assets and liabilities at the end of 2008. This has given us an accurate picture of the state of the funds. The funds may have benefited from a slight upturn in asset values over the past two months. Section 10(3) will require a further valuation of the funds to take place on the date of effect of the transfer order. The Minister would like me to advise Senator Twomey that every scheme that is the subject of a transfer order will be required, for FRS 17 accounting purposes, to provide an annual statement of pension liabilities.

The default position for financing public service pensions is that benefits are met on a pay-as-you-go basis. Each year, a contribution equivalent to 1% of gross national product is made to the National Pensions Reserve Fund. The transfer of these pension funds to the reserve fund is line with this model. The issue of the sustainability of public service pensions, which is of wider application than the extent of the deficits in these funds, is being addressed in the context of the national pensions framework. The Green Paper on pensions, which was published in 2007, sets out possible options for the reform of public service pensions. The Government faces the challenge of striking the appropriate balance between employers, people in employment and the State.

I am not disposed to accepting amendment No. 5. Following the transfer of the pension funds, each of the bodies will be obliged under the FRS 17 system to account each year for their pension liabilities. The liabilities will be published each year in the audited accounts of the bodies. The accounts of the individual bodies will also show the pension contributions and payments made by them. Section 12(4) provides for the establishment of an appropriate mechanism, with the approval of the relevant Minister and the Minister for Finance, to account separately for pension contributions. Therefore, the information mentioned in Senator Twomey's amendment will be readily available without the amendment being required.

Amendment, by leave, withdrawn.

Section 5 agreed to.

Sections 6 to 9, inclusive, agreed to.

SECTION 10.

Amendment No. 4 not moved.

Question proposed: "That section 10 stand part of the Bill."

Senator Paddy Burke: The Minister of State, Deputy Mansergh, said earlier that the value of the assets in 2008 was €1.7 billion. How much would they be worth in today's terms? Who valued the assets in 2008?

Deputy Seán Haughey: The assets were valued by the trustees at the time. The only thing I can say is that the values are slightly higher at this stage.

Question put and agreed to.

Sections 11 to 14, inclusive, agreed to.

Amendment No. 5 not moved.

Sections 15 to 21, inclusive, agreed to.

Schedule 1 agreed to.

Amendments Nos. 6 to 8, inclusive, not moved.

Schedule 2 agreed to.

TITLE.

Senator Liam Twomey: I move amendment No. 9:

In page 5, line 23, after "PROVIDED" to insert "FOR A PERIOD UP TO 2014".

Amendment put and declared lost.

Senator Liam Twomey: I move amendment No. 10:

In page 5, line 23, between "TO AMEND" to insert the following:

"TO RESTRICT THE COVERAGE OF SUPPORT AND EXCLUDE CERTAIN INSTRUMENTS,".

Amendment put and declared lost.

Title agreed to.

Bill reported without amendment.

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

Senator Marc MacSharry: Now.

An Cathaoirleach: Is that agreed?

Senator Liam Twomey: No.

Question put: "That Report Stage be taken now."

The Seanad divided: Tá, 25; Níl, 15.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.
MacSharry, Marc.
Norris, David.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McFadden, Nicky.
Mullen, Rónán.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

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

Question declared carried.

Financial Measure (Miscellaneous Provisions) Bill 2009: Report and Final Stages.

Bill received for final consideration.

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

The Seanad divided: Tá, 25; Níl, 15.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.
MacSharry, Marc.
Norris, David.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McFadden, Nicky.
Mullen, Rónán.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

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

Question declared carried.

Financial Measures (Miscellaneous Provisions) Bill 2009: Motion for Earlier Signature.

Senator Donie Cassidy: I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Financial Measures (Miscellaneous Provisions) Bill 2009 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.

Question put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: At 2.30 p.m. on Tuesday, 30 June 2009.

Adjournment Matters.

Family Support Services.

Senator Maria Corrigan: I thank the Cathaoirleach for giving me the opportunity to raise this issue, and I thank the Minister of State for attending in the Chamber. I raise the issue with specific regard to the situation of family members and siblings in particular who spend most of their adult lives together in the same home and the concerns they have for their future. There have been considerable increases in the prices of property in recent years and a number of people have contacted me to inquire what might happen as they approach old age in the event of a sister or brother dying and how it might be possible to retain the family home. Concern has also been expressed about a sibling becoming unwell where a brother or sister would like to be in a position to take care of him or her and receive support for that.

I note that a recommendation was made in the Colley report that a study should be conducted to establish the nature and extent of such situations throughout Ireland and perhaps consider the issues that have arisen. I am not sure whether it is necessary to undertake such a study or if, perhaps, some other mechanism might be employed, but I know there are significant numbers of such families living together throughout Ireland whose members are concerned about the future and their legal entitlements in terms of supports that might be available to them from the State. I would appreciate it if some indication could be given as to when such a

[Senator Maria Corrigan.]

study might be undertaken or, alternatively, whether it might be possible for another mechanism to be devised to assess the situation and consider whether any changes to the legislation are needed. Given the proposed civil partnership Bill, I believe some people have been prompted to make contact to see whether their situations might be examined in the light of that legislation with a view to addressing some of the challenges and difficulties they face.

Minister of State at the Department of Education and Science (Deputy Seán Haughey): The options paper on domestic partnership prepared by a working group chaired by Ms Anne Colley was published in November 2006. The paper focused on three distinct types of cohabiting relationships: opposite-sex couples, same-sex couples and non-conjugal relationships. The paper examined a range of options to accord legal recognition and effect to each of these types of cohabiting relationships.

The working group reported that there were very few responses to its submissions on non-conjugal relationships and, together with the absence of research material, it found it difficult to analyse properly the options or consequences of according legal recognition to this category. The Law Reform Commission, in its consultations on cohabitants and the law, also received very few responses from the non-conjugal couples.

There has been little quantitative sociological study of the phenomenon of cohabitation in Ireland. While the working group found some research, this mostly related to experience outside the State, with some recent but not comprehensive or long-term research emerging on the situation in Ireland. This was the context in which the group concluded that, rather than proposing options for such a non-homogeneous category, a comprehensive study of cohabitation in Ireland should be commissioned with a view to establishing who cohabiters are as well as their reasons for cohabiting, and informing a review of the relevant legislation to identify where reforms may be required. As Senator Corrigan is aware, the Government in its agreed programme undertook to legislate for civil partnerships. To this end, the Minister for Justice, Equality and Law Reform published the general scheme of the civil partnerships Bill in June 2008. I understand the Minister expects to publish the Bill within the next few days.

The main proposals in the general scheme are for same-sex couples, a scheme of civil partnership registration together with a range of rights and duties consequent on registration; for long-term opposite-sex and same-sex couples, access to a cohabitants' redress scheme giving protection to a financially vulnerable person at the end of a relationship; and, again for opposite-sex and same-sex couples, recognition of cohabitant agreements enabling cohabitants to regulate their joint financial affairs and to opt out of the redress scheme.

The scheme makes no provision for non-conjugal couples such as siblings. It would not be appropriate to apply the civil partnership registration scheme to this category. The issues for sibling or other non-intimate couples are not the same as those facing same-sex couples. The former are neither expected nor required to assume the level of responsibility for each other that same-sex couples registering in a civil partnership will do, and it would be an unwarranted interference in their individual freedoms to require them to do so. Both the Law Reform Commission and the Colley group on domestic partnership concluded that "non-conjugal" relationships comprising diverse familial, caring, platonic and house-sharing cohabitants do not form a homogenous group for which a statutory response is possible. The UK Law Commission came to a similar conclusion about property rights in shared homes.

As matters stand, non-conjugal cohabitants may regulate their financial and property affairs by contract and the tax code already makes provision for capital acquisitions tax relief on shared private residences. Contractual arrangements may be freely made by those in non-conjugal relationships to regulate many aspects of their interdependency including joint ownership of property, joint tenancy, succession and power of attorney. Regarding a person's residence, the tax code provides for acquisitions tax relief for non-marital and other cohabitants with respect to the gift of inheritance of a shared home.

The civil partnership registration scheme and the cohabitants' redress scheme proposed would impose sets of rights and obligations on long-term cohabitants, including on maintenance, pensions and property. It would not be appropriate to extend these obligations to non-conjugal couples. Giving the courts power to make orders on maintenance, pensions and property would constitute an unwarranted intrusion into normal social and familial relationships. It would be inappropriate to require siblings, family members or house sharers to pay maintenance to each other simply because the relationship or friendship had broken down.

The courts' powers to make orders restricting or mandating the sale of property would be an undue interference with constitutional property rights. There is also very little evidence of demand for such arrangements for non-conjugal couples. Both the Law Reform Commission and the Colley group carried out extensive consultations in preparing their reports and, notably, both reported they received very few responses about non-conjugal couples.

Difficulties can arise where siblings or friends, having lived together, are in dispute about their respective interests in a home or other property. However, the courts already have a broad jurisdiction to make determinations on questions of ownership where it is just and equitable to do so. It may be of more importance to affirm that when specific issues arise for persons in close relationships they will be addressed, as in the case of relief of acquisitions taxation, as I mentioned earlier, and will be dealt with by the Government as may be appropriate. The area in general of siblings and friends, however, will continue to be reviewed with a view to determining the need for any legislative or administrative actions by the relevant Departments.

Senator Maria Corrigan: I thank the Minister of State for a very comprehensive reply. I can appreciate the issues the Minister of State has raised and the points addressed, particularly the dilemma posed whereby, despite the call for submissions, a very small number of submissions were received from people in non-conjugal relationships. I can understand that this posed a difficulty for the group in considering its report. Perhaps there was not as much of an awareness, and perhaps the proposed civil partnership Bill has brought about a greater awareness among people. Some of the issues that have arisen for people in such living circumstances have started to occur only in the last number of years with the change in property prices.

I welcome in particular the final paragraph of the Minister of State's response where he said it will be possible and it is important that the specific issues that arise for these people will be addressed and that it will be dealt with by the Government as appropriate. I welcome the commitment that was given that in the general area of siblings and friends, this will continue to be reviewed with a view to determining the need for any legislative or administrative actions by the relevant Departments. Should it be decided to take any action as a result of these reviews, might it be possible to be informed of that action? Can I take it that the study recommended will not go ahead?

Deputy Seán Haughey: I thank the Senator for her very considered and reflective contribution to this debate and I will take on board what she has said about being kept informed. I will also check her other query and come back to her on that.

Flood Relief.

Senator Brian Ó Domhnaill: This issue, which has received widespread news coverage over the last 36 hours or so, concerns the unprecedented flooding as a result of almost freak weather conditions in west Donegal, a Gaeltacht area, in the parish of Gweedore, one of the strongest Gaeltachtaí in the country. Severe, heavy rainfall resulted in rivers bursting their banks. Bridges were broken, houses flooded and roads torn apart. People have seen in the national media that there was 8 ft. to 10 ft. of water in certain areas, including the sean Teach an Phobail, the old church in Derrybeg.

I have spoken to numerous local residents over the last 36 hours or so who have explained their personal circumstances. While there is the global element of destruction being caused, there is also the localised destruction of private dwellings, where roads going into private houses have been torn apart and gardens, houses and sheds have become waterlogged.

It is a very serious, emergency situation. As I mentioned, it has affected private dwellings, business premises, community facilities, including religious facilities, and farms, including farmers who even lost sheep stock which were washed out to sea as a result of the heavy rainfall. County, regional and local roads have been torn apart. Public bridges along regional and county roads have also been torn apart. Footpaths and public walkways have been severely damaged and access points to private homes blocked.

Since the issue emerged on Tuesday evening between 4.30 p.m. and 6 p.m. when I started to receive telephone calls from members of the public in the area, Donegal County Council has reacted swiftly. It has reacted in an emergency manner dealing with it on a local basis. Despite being under increasing financial pressure, the roads section deserves special recognition for the work it has done. It has reacted magnificently. Credit is also due to the roads engineers, the area manager and the director of roads and transportation, Mr. John McLoughlin. The Donegal county manager, Mr. Michael McLoone, visited the site yesterday and spent most of the afternoon at the location to see at first-hand the damage that had been caused.

The main issue arising is the cost of the damage. Donegal County Council is putting together a comprehensive overview of the indicative cost of the damage caused. It is hoped the report will be ready overnight before the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, and the Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Coughlan, visit Gweedore tomorrow morning. The report will provide a technical overview of the money required to repair the damage. While the council is continuing with this work, it simply does not have the resources locally to repair the damage. That is where Government intervention is required to deal with this unprecedented situation. There may be a number of Government agencies, including the Department of Community, Rural and Gaeltacht Affairs, the Office of Public Works and the Department of Transport, involved. I have spoken to two Ministers today and appreciate that the Minister, Deputy Ó Cuív, is coming to Donegal tomorrow morning. However, Government intervention and financial assistance for Donegal County Council is required in order to reinstate the public infrastructure that has been severely damaged as a result of flooding.

Luckily no lives were lost. The same parish suffered flooding more than 100 years ago when five lives were lost while people were attending church. Money needs to be ring-fenced. There must be a co-ordinated response which I understand the Minister, Deputy Ó Cuív, will be leading. I hope financial assistance will be available to Donegal County Council and the people of Gweedore to overcome this nightmare. It is a nightmare for the families and individuals affected.

I thank the Cathaoirleach for allowing me to raise the issue. It is important to raise it and I look forward to hearing the response of the Minister of State.

Deputy Seán Haughey: I am taking this matter on behalf of the Minister of State at the Department of Finance, Deputy Mansergh.

I thank the Senator for giving me an opportunity to come into the House to discuss the severe flooding which occurred in the Gweedore Gaeltacht area in County Donegal on 23 June. It is ironic that the flooding took place at a time when most of the rest of the country was basking in sunshine. The Donegal fire service has described the weather as freakish.

The Minister of State with special responsibility for the Office of Public Works, Deputy Mansergh, is very much aware of the hardship and loss suffered as a result of flooding and is pleased, through me, to have the opportunity to record his personal sympathy and concern and that of the Government for the victims of the flooding. The Minister of State has visited the scenes of flooding in many parts of the country where severe flooding has occurred and has first hand knowledge of the hardship and worry that flooding causes. With the Office of Public Works, he is acutely aware of the impacts of flooding and is committed to doing all he can to alleviate them both through the provision of defences to best practice standards to reduce existing flood risk and by taking steps to prevent the creation of future risk. This is not the time to go into detail on these matters as time is limited and the topic under discussion is the flooding in the Gweedore area.

OPW engineering staff met on site engineering staff from Donegal County Council on 24 June. A combination of spring tides, together with prolonged torrential rain on 23 June, contributed to flooding on lower level lands. The heavy rain commenced at approximately 3 p.m. and continued unabated for approximately four hours. Eight county road bridges were damaged — mainly parapet, soffit and scouring damage; four private bridges were also damaged, two of which serve blocks of six or nine houses approximately. Parts of county roads were washed away or suffered surface damage along the course of the channel. Among the buildings flooded were a craft shop, a flower shop and the old Church at Derrybeg which now houses the Gweedore library. A number of private properties were also flooded and more details on the precise number affected are awaited. These are preliminary findings and the process of gathering further information is ongoing. It is hoped a preliminary report will be available shortly and an early meeting will be set up between Donegal County Council and OPW officials to assess what can be done to prevent a recurrence.

The Minister of State is conscious that, in addition to the trauma caused by the flooding, people also suffered financial loss arising from the damage caused to their property. The Department of Social and Family Affairs has responsibility for providing humanitarian assistance where it is considered appropriate and is providing help through the community welfare officer network for victims of the recent flooding. Where people are suffering hardship, they should contact the local community welfare officer for assistance and each case will be dealt with confidentially and on its merits. I should point out, however, that recent humanitarian assistance schemes have not been extended to cover business or agriculture.

The Office of Public Works will continue to work with Donegal County Council to try to alleviate the risk of future flooding in Gweedore and the surrounding areas. I, again, express my sympathy to the victims of the flooding in parts of County Donegal and assure them of the support of the Minister of State for the work under way to minimise flooding risk in the future. I thank the Senator for his important contribution. We are attempting to deal with the matter urgently and bring all parties on board in the process. As the Senator said, a number of Mini-

[Deputy Seán Haughey.]

sters are giving the matter their immediate attention. I know that, working together, we can deal with the serious issues confronting those in the part of the country affected.

The Seanad adjourned at 3.10 p.m. until 2.30 p.m. on Tuesday, 30 June 2009.