

SEANAD ÉIREANN

Dé Céadaoin, 28 Deireadh Fómhair 2009.
Wednesday, 28 October 2009.

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Paidir.
Prayer.

Business of Seanad.

An Cathaoirleach: I have notice from Senator Paschal Donohoe that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Health and Children to clarify the steps that will be taken to implement a transitional adoption agreement with Ethiopia and to amend the Adoption Bill 2009 to allow for continued adoption from Ethiopia as a non-Hague signatory country.

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

The need for the Minister for Education and Science to allow the building project at Scoil Chonaill Naofa, Bunbeg, County Donegal, to proceed to tender.

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

The need for the Minister for Education and Science to make a statement on the funding of Protestant schools and, in the context of the ancillary grant, to outline the steps he is taking to honour the Government's commitment to them.

I have also received notice from Senator Cecilia Keaveney of the following matter:

The need for the Minister for Justice, Equality and Law Reform to outline his views on fixed odds betting machines.

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

The need for the Minister for Health and Children to clarify when resources will be made available for Our Lady's Children's Hospital, Crumlin to deal with the waiting list for crucial cardiac operations for children.

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

The need for the Minister for Agriculture, Fisheries and Food to ensure the viability of small rural farms and to reverse the budget cuts that are having a drastic impact on these farms.

I have also received notice from Senator Paul Coghlan of the following matter:

[An Cathaoirleach.]

The need for the Minister for the Environment, Heritage and Local Government to facilitate an immediate binding mediation process between the Killarney and Muckross jarveys and the national parks and wildlife service to ensure a satisfactory resolution to the ongoing conflict.

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

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, Planning and Development (Amendment) Bill 2009 — Second Stage (resumed), to be taken at the conclusion of the Order of Business and adjourn not later than 5.30 p.m., if not previously concluded, on which spokespersons may speak for 20 minutes and all other Senators for 12, and on which Senators may share time by agreement of the House; and No. 2, a Private Members' Bill, Appointments to Public Bodies Bill 2009 — Order for Second Stage and Second Stage to be taken at the conclusion of No. 1, but not earlier than 5.30 p.m. and to conclude not later than 7.30 p.m.

Senator Frances Fitzgerald: This morning *The Irish Times* reporting the Taoiseach's approach to budgetary reform stated the Taoiseach said he would go ahead with the €4 billion budget cuts with or without partners. Earlier in the week he spoke about reform. The Minister of State, Deputy Conor Lenihan, spoke about trying to save money through reform mechanisms. It is very clear there is uncertainty about the Government's approach. Members of Government appear to be saying just enough to annoy every interest group, but there is not enough public discussion of the direction in which the budget is going. We should be discussing the McCarthy report and the Commission on Taxation in this House. I oppose the Order of Business on the grounds that we ought to be discussing these issues at this critical period.

The Taoiseach spoke about reform, but it is very clear that the Government's track record on reform is very poor. In areas such as the HSE and FÁS there is no evidence of reform, which is something this House should be discussing. For example, this week it was reported that €11 million was being spent by the HSE on sick leave. We cannot find €10 million for a life-saving cervical cancer vaccine for girls and yet €11 million is being spent on sick leave within the HSE with no proper explanation. I call on the Leader to ask the Minister for Health and Children to come to the House to explain why cardiac operations at Our Lady's Children's Hospital in Crumlin are being cancelled on a daily basis. Many Senators will have received an e-mail in this regard during the week. I spoke to Gemma Lawlor, mother of Joy Lawlor Doyle, on Sunday about the distress she experienced on receiving a telephone call from Joy's crèche to tell her that her child was turning blue and that the staff could no longer look after her because they were so concerned about her cardiac condition. Will the Leader ask the Minister to outline to the House what plans there are to deal with the cardiac waiting list at Crumlin Children's Hospital? There must be immediate investment in the hospital to tackle this problem. Children like Joy cannot wait until the paediatric hospital is built on the Mater Hospital site; they require intervention now.

Senator Joe O'Toole: I listened in recent days as the Minister for Education and Science turned statistics on their heads, getting away with murder in the process. It is important to set the record straight. This time last year there were no unemployed teachers in the State and the only way schools could secure substitute cover was by seeking the services of retired teachers

in their areas. It was then that the Minister and his Government axed 1,000 teaching jobs in the primary sector and reduced the number of substitute days to be availed of by schools. As a result, hundreds of qualified teachers are unemployed and counting their shillings in an effort to survive.

This week the Minister, using last year's figures, claimed that retired teachers are blocking young teachers from securing positions in schools. That is utterly false, misleading and disingenuous. The Minister must be invited to the House to show how the figures he has provided stack up. The last time I challenged data provided by the Minister was this time last year when I questioned his projections regarding the number of teachers who would find themselves unemployed as a consequence of his decisions. He has had to change his mind about that and withdraw what he said. If he comes into this Chamber, he will be unable to face down the force of argument against what he said. It is unfair to crucify retired teachers, most of whom have no interest in engaging in substitute teaching. A principal teacher in a small school anywhere in the State who requires substitute cover at short notice generally has no choice but to seek assistance from a retired teacher. Qualified teachers who are unable to secure teaching positions are not sitting at home waiting for that type of telephone call; they are working on the checkouts in Lidl and Aldi to earn the shillings to keep them going. That is the reality and it is time the Minister came into this House to face the music.

Senator Jerry Buttimer: Hear, hear.

Senator Alex White: I never received an answer to my question some weeks ago as to when and why the decision was made to move from a policy of securing savings of €4 billion in public spending through a combination of €2.5 billion in spending cuts and €1.5 billion in taxation measures to a position where the entire €4 billion is apparently to be achieved by way of cuts alone. Senator Fitzgerald referred to the reports in today's newspapers that the Taoiseach has put forward another version of his "my way or the highway" approach to the debate on the forthcoming budget with an indication that what he envisages will occur come hell or high water.

Will the Leader facilitate a debate on the fundamental issues associated with the desirability and advisability of instituting such radical spending cuts? The question is whether our economy will be able to withstand such deep cuts in public services and the associated impact for the entire economy. No other country in the OECD is engaging in these types of radical cuts as a matter of policy in the midst of a severe recession. The conventional wisdom has always been that governments should wait until the economy shows some signs of improvement before engaging in such draconian reductions in public spending. The Government apparently shared this view earlier in the year but it seems there has been a change of mind in the interim. No explanation has been given in this House or elsewhere as to whether such a decision was made and, if so, why or when it was taken. When I put this question to the Leader on a previous occasion he replied that we must wait to see what is done in the budget. I am also interested in the Deputy Leader's take on why and when this decision was made and by whom.

There must be a debate on how increases in taxation can contribute to making up the required saving of €4 billion in public expenditure. Why was the Commission on Taxation tasked with setting out the various options in this regard if its findings were to be jettisoned? I am not saying that anybody in the Labour Party or elsewhere would feel particularly comfortable standing up and advocating tax increases. Nobody likes to do that, but it is part of the picture and we have to deal with the balance between cuts and taxation measures. It is simply not good enough to spend money and effort on these reports during a serious recession and do nothing. There is a need for serious public debate in places like this House. I second the

[Senator Alex White.]

proposal on the Order of Business that we have a debate here in advance of the budget on what ought to occur.

Senator Dan Boyle: I am not adverse to debates in this House on the report of the Commission on Taxation, or on the McCarthy report. Such debates will inform the debate that will eventually take place when a budget is formed on 9 December. I do not think anybody in this House should second guess what is likely to happen on 9 December. The Government is committed to a budget adjustment of €4 billion. The circumstances demand that such an adjustment be made. How that adjustment is made in terms of savings in public expenditure and in additional taxation measures has yet to be determined.

One new taxation measure has already been adopted. I am confident that some of the recommendations of the commission, such as getting rid of tax reliefs for high earners, tails on already extinguished tax reliefs, changes in tax residency laws and so on, will have to be part of the budget on 9 December. Such is the scale of the measures that have to be taken, we can only take what can be seen as an egalitarian approach to what will be the most serious budgetary adjustment in the life of this or any Government over the last 30 years. That is the approach that my party intends to take and on 9 December we will see a budget that will be framed along those lines.

Given the ongoing debate about the purpose of this House, we could have a series of debates on things like today's report of the National Economic and Social Forum on home care packages. Senator Buttimer was on the steering committee of the forum and the chair of that committee, Professor Tony Fahey, stated that the changes of the agency could be made anywhere in public administration. The National Economic and Social Forum has been given a new focus to see how policy is being implemented. In this important area, there was a recognition that the policy is necessary and good, but that it is being badly implemented. There are variances across the country for means testing, care assessment and how different parts of the HSE are implementing the policy. We can see this in many of our public bodies and it would point the way towards some of the changes that need to be happening to achieve real public service reform. Not only should we have a debate on this report, but also on the report of the National Economic and Social Council, as well as reports of the Law Reform Commission. If the clár of this House was predicated on such debates on a weekly basis, we would be more than justifying our existence.

Senator David Norris: Hear, hear.

Senator Nicky McFadden: I wish to speak about the amount of people who are forced to go shopping in the North and the amount of revenue we are losing as a result. Senator Boyle has spoken about the budget on 9 December, and I call on the Leader to convey to the Minister for Finance that we must have decreases in VAT in order to encourage people to stay at home. There are 250,000 households who are shopping in the North of Ireland. Massive amounts of revenue are being lost to this State. I have raised this issue consistently in the past, and I call on the Leader to ask the Minister for Finance to reduce VAT so people can shop at home.

I also asked the Leader about the meeting between the Minister of State, Deputy Barry Andrews, and the Deputy Prime Minister of Vietnam, and the Leader told me he would personally come back to me last week.

Senator Donie Cassidy: I will do so.

Senator Nicky McFadden: Thank you.

Senator Terry Leyden: It is nice to see it is business as usual here today.

An Cathaoirleach: Questions to the Leader, please.

Senator Terry Leyden: Back to basics. I ask the Leader to consider arranging a debate with the Minister for Communications, Energy and Natural Resources. I commend the Minister, Deputy Ryan, on the excellent success of the home energy scheme. Up to the end of June, approximately €16 million had been allocated under the scheme in respect of approximately 12,000 houses. I encourage people to avail of this wonderful scheme, which has a budget of €50 million. I suggest that we could discuss this self-financing Government initiative with the Minister. As many jobs have been created under the scheme, it can be said to be responsible for additional VAT and PRSI returns. It also leads to productive and worthwhile savings in oil. The Minister and his colleague, the Minister for Education and Science, should examine whether the scheme can be extended to this country's primary and secondary schools. It is unacceptable, in light of the advent of solar panels and other means of heating water, that 80% of primary schools and 52% of secondary schools do not have hot water. It is vital that we have hot water in every school, especially in the context of the swine flu problem. That should be a pretty basic requirement in 2009. The Minister, Deputy Batt O'Keeffe, has introduced a useful water harvesting scheme in our schools. His efforts should be combined with those of his colleague, the Minister, Deputy Ryan, so further initiatives can be introduced in these difficult times. When the going gets tough, the tough get going and come up with initiatives and ideas. I ask the Leader to organise a discussion on this matter with the Minister, Deputy Ryan, at an early stage. It would be worthwhile and would benefit our schools.

Senator David Norris: I ask the Leader again to arrange a rolling debate on the economy, particularly in light of the extraordinary collapse in the value of Irish banks today. I learned a few minutes ago that share prices had fallen by 33%, which is very worrying. It appears this has happened partly on foot of concerns about the inefficient scheduling of Government business in the other House. I refer specifically to delays in passing the National Asset Management Agency Bill 2009, which are inhibiting the banks in the floating of a rights issue that would prop them up and allow them to repay badly needed moneys to the Exchequer. This is a very regrettable slur on the Houses of the Oireachtas. It feels as if we are living through the South Sea bubble all over again, which is uncomfortable and worrying. In the last few days, I heard for the first time about the existence of special purpose vehicles, or SPVs. I do not terribly like the sound of them, particularly having listened to last night's debate, in which Members of this House could not take part. I suggest that certain Senators could contribute valuably to such a discussion. I refer to Senator O'Toole, who has been heavily involved in the partnership process over the years; Senator Ross, who is an outstanding investigative journalist; and Senator Quinn, who is a major businessman. We should deal with this as much as we can.

I would also like to call for a debate on human rights. Today, at the United Nations, there will be a vote on the US-inspired blockade against the people of Cuba, which inhibits the importation of medical supplies, in particular. I salute Dr. David Hickey, who has brought this issue to the fore again. A debate on human rights would also allow us to speak about the executions of Tibetan Buddhists who protested against the Chinese occupation of Tibet. Consideration could also be given to the role of the Irish Human Rights Commission. The chairman of the commission, Maurice Manning, a former Member of this House, told a meeting of the British-Irish Parliamentary Assembly that its budget was cut by 32% last year and if the cuts continue, it will be completely unable to function. I remind the House that the commission was established as an integral part of the Belfast Agreement. It is astonishing that the Government has been able to cut its budget without any protest or discussion in either House.

Senator Cecilia Keaveney: I congratulate all those who were involved in this week's massive seizure of illegal cigarettes in Greenore. I suggest that the House, which has examined the issue of drugs and contraband in the past, should recognise and celebrate massive successes of this nature. As a proportion of the overall activity of this nature that takes place, however, this week's seizure is a drop in the ocean. I commend those international authorities that were involved in this success. I ask the Leader to bring the thoughts of many people on this issue to the attention of the Minister for Justice, Equality and Law Reform. It was stated on "Prime Time Investigates" some months ago that the penalties and fines imposed by the courts on those who bring cigarettes into the country, and those who are legitimately in business but who sell illegal cigarettes, are insufficient. The programme showed cigarettes being smuggled through the airport. In congratulating those responsible for the tremendous work done to achieve what was achieved and in recognising the seizure is only a drop in the ocean, not only in terms of cigarettes but in terms of the overall drugs problem, it is important the Leader not only asks the Minister to be aware of the problem but also to respond to the House thereon.

Having raised the issue of alcohol labelling a number of times, I note the EU authorities have requested all member states to consider what legislation or regulation should be in place. Will the Leader ask the Minister of State at the Department of Health and Children, Deputy Áine Brady, for an update on the current position? It links into the whole debate on alcohol that is currently taking place. It is very important because, if we do not know how many calories are in a drink or whether "light" means light in calories or light in alcohol, we are not informed as to how much alcohol we have consumed when getting into a car.

Senator Paul Coghlan: I have asked the Leader about No. 5, the Multi-Unit Developments Bill 2009, and No. 8, the Property Services (Regulation) Bill 2009, twice in the recent past, but his answers on the two occasions conflicted somewhat. If the Leader is in a position to do so, will he state definitively whether it is suggested that these Bills will be amalgamated? How is it intended to proceed in respect of the two Bills?

The blockade at our national park, involving both the Muckross and Killarney jarveys, is receiving considerable publicity at present and is causing major disruption in the part of the world where I reside. Mediation is the only sensible route. Without discussing the rights or wrongs of the matter, if there is a request to the court, as there is, from the Killarney jarveys, not the Muckross jarveys——

An Cathaoirleach: Is that matter not before the courts at present?

Senator Paul Coghlan: It is not.

An Cathaoirleach: It is being reviewed.

Senator Paul Coghlan: It is not. The National Parks and Wildlife Service has asked for more time. Given that the honourable judge acceded to the request to grant it more time, I fail to understand why it then proceeded to lock people out. I ask that the blockade be lifted pending mediation or a court hearing.

Senator Terry Leyden: Senator Coghlan would be a very good mediator. It would keep him busy.

Senator Paul Coghlan: I appreciate the Cathaoirleach will allow me to raise this matter again on an Adjournment debate in early course.

Senator Déirdre de Búrca: Will the Leader ask the Minister for Transport, Deputy Dempsey, to address the House on his proposal on lowering the blood alcohol limit from 80 mg per 100

ml to 50 mg per 100 ml? I raise this because I noticed in an article in *The Irish Times* today that more than 500 people were arrested for suspected drink driving offences over the bank holiday weekend. This was because the traffic corps had almost 2,000 checkpoints on arterial routes from Dublin and also in provincial towns around the country. It is worrying to believe that so many were arrested for suspected drink driving. In some cases, where it did not appear there was any alcohol in the suspects' blood, they were tested for drugs.

This House should have a mature and sensible debate on the issue of drink driving. We should not tolerate any drink driving. Many Senators from rural constituencies will have the points of view of their constituents to put forward. Many people do not like the proposal to lower the blood alcohol limit but we need to consider the overall risk being posed to people's lives and the carnage on our roads. We need to recognise there is a problem on our roads and drink plays a part in that. We, in this House, need to have a sensible, mature and well-informed debate on the issue. I would appreciate if the Leader would ask the Minister to address the matter in the House.

Senator Phil Prendergast: I join Senator Fitzgerald who spoke about children such as Joy and the other 100 children that are waiting for vital heart surgery in Crumlin and elsewhere around the country. Priority should be given to freeing up beds to allow that vital surgery to take place. It is well recognised that surgery that is elective or planned has to happen at a certain point in a child's life to improve his or her quality of life without considerably worsening his or her life expectancy. That issue should be dealt with as a matter of extreme urgency because time is of the essence and that is the one thing those children do not have.

I attended the launch today of the report by the National Economic and Social Forum on the home care package scheme. I concur with the points made by Senator Boyle on the problems that have been identified in managing the scheme, which is riddled with inconsistencies. A number of home care package providers have noted that having different budget lines for home care packages and other types of community care doubles the level of administrative work. Double or triple assessments of the care needs of older people are being carried out.

One social worker said the current assessment process for application approval of a home care package does not always work efficiently in terms of meeting a patient's needs. In many areas the hospital social worker submits a home care package application and care plan, following which a case manager visits the patient while in hospital to carry out a needs assessment. The home care package application already includes a needs assessment which has been completed by the hospital multidisciplinary team. There is often duplication of assessments that have already taken place.

That is yet another example of how the HSE malfunctions and misappropriates funding that could be better spent on the delivery of the service on the ground to the people who need it. It is a ridiculous misuse of funding to have two or three professionals involved in assessing one person's needs. In regard to how €4 billion might be saved, this is one area where we should examine what has been realistically assessed and was found not to be working. We should try to implement policies that are positive.

Senator Ann Ormonde: We should have an ongoing debate on the economy, society and the enormous changes that have taken place in work. Will the work of the future be done on a 9 a.m. to 5 p.m. basis? We should consider the work ethic. All that is very important when we are facing cutbacks or tax increases. The discussion must centre on society in general. It would be a golden opportunity to have a debate on how people work today, what they think of work and whether it should be done on a 9 a.m. to 5 p.m. basis or from the home. Those are all areas that will have an influence on the budget cutbacks.

[Senator Ann Ormonde.]

I commend the multi-agency group that worked towards the massive seizure of illegal cigarettes. It appears to be the biggest such haul in the history of the State. I congratulate everyone involved, in particular the Customs and Excise and the Garda backup. It is an example of the importance of working with international agencies. If ever there was a reason we needed to pass the Lisbon treaty, yesterday's seizure was an example of how we work together nationally and internationally. The job could not have been done otherwise. The criminals do not acknowledge national borders. We could not do the work alone. I compliment everyone involved in that massive haul. I hope it will lead to many more.

The main issue to which I referred is the economy and how best we can get the country back up and running. It is very important that we have such a debate in this House.

Senator Paschal Donohoe: Senator Fitzgerald called for a debate on the waste of financial resources and the effect of such wastage on the funding of front-line services. I request the Leader to ask the Minister for Transport to come to this House to give an account of the different agencies and semi-State bodies under his control.

Senator Joe O'Toole: Hear, hear.

Senator Paschal Donohoe: I attended a meeting of the Oireachtas Joint Committee on Transport yesterday at which I heard a presentation on a report of an internal audit on the operation of Iarnród Éireann. The conclusions of the report and the manner in which it was presented were genuinely shocking in terms of how taxpayers' money is being spent. While considerable public debate on the company has focused on the fraud that happened within it, for which some people have been sacked, the point of more concern is that the report makes it clear there was virtually an absence of, or very weak, systems in place to monitor the spending of taxpayers' money. In quantifying the risk to the company from the manner in which it is spending taxpayers' money, the report states financial risk is almost certain in terms of the company, and in quantifying the effect on the company, the report states the effect would be super-critical. This organisation is spending our money at a time when we are trying to find money to maintain front-line services. Will the Leader ask the Minister for Transport to come to the House to give an account of what the Government is doing to deal with this issue?

I support Senator's White's call for a debate on the overall budgetary position. It must be borne in mind that the focus is on not only finding cuts of €4 billion this year, but also on the commitment given to finding cuts of €4 billion in the budget after the forthcoming one and the budget after that. Having regard to the changes we will face and the sacrifices and awful difficulties people are experiencing, the country will be asked to take cuts at least twice again.

Senator Camillus Glynn: Will the Leader invite the Minister for the Environment, Heritage and Local Government to come to the House to discuss the lack of the application of the Derelict Sites Act? Many, if not all, Members will be aware of the many eyesores strewn throughout our countryside and in our towns, villages and cities. Regrettably, in some cases the offending entity is the local authority which has boarded-up houses within its ownership. That is not acceptable given that many people are seeking houses. Bearing in mind that not everybody wants to live in a town, village or city, houses in rural areas that have been derelict for some time should be acquired by the local authority and converted into liveable accommodation for people who want to live in the country where I was bred, born and reared, as were many in this Chamber.

Last week I called on the Leader to invite the Minister for Justice, Equality and Law Reform to the House to discuss the position that obtains as to what defence one can use to protect

oneself and one's property. I preface my further comments by saying the Minister, Deputy Dermot Ahern, is a very effective and caring Minister, but this issue is exercising the minds of many people. I received letters from three pensioners over the weekend asking me to raise this matter. I hardly need to remind the Cathaoirleach and the Members of the case of the 92 year old man who was found dead in suspicious circumstances in his cottage in County Limerick.

The rolling out of the joint policing committees can be of particular help in this regard. Local authority members, Oireachtas Members, gardaí and representatives of local organisations can come together and make definitive proposals that will assist in this matter. This battle has been ongoing for quite some time not only under this Administration but also under previous one. The old and vulnerable people of this country must be protected.

Senator Liam Twomey: I was under the impression that the issue of derelict sites was being dealt with in the Lower House this week because NAMA is dealing with derelict sites, commercial and residential, throughout the country——

An Cathaoirleach: Has the Deputy a question for the Leader?

(Interruptions).

Senator Liam Twomey: ——which will cost the taxpayer €54 billion and the Government is setting up a special purpose vehicle this week to hide from the Irish taxpayer the burden of the debt we are carrying as a country.

Senator Camillus Glynn: There is also a derelict site in Senator Twomey's place.

Senator Liam Twomey: We should have more than one debate.

An Cathaoirleach: There should not be a debate across the floor from one Member to another. I ask for questions to the Leader.

Senator Liam Twomey: We should have debates in this House on a regular basis on the economy. The deficit is not €4 billion this year and it will not be €4 billion next year; it will be €25 billion every year, by the looks of things, for the foreseeable future. That is so big it could end up breaking this country. We all need to be realistic about what we say in debates on this issue. I ask that Ministers be brought in here every week — there are only six weeks to the most horrendous budget in the history of the State — to outline what they would like to see done in the next couple of years before we go completely down the Swanee.

The other big issue at present is we are faced with a potential — I say “potential” because I do not want to be seen to be scaremongering — pandemic in this country. If anyone did a little research behind the headings, he or she would realise that the HSE's campaign for the swine flu vaccination programme is an absolute shambles and is falling apart. There are not 1,800 doctors participating in this scheme. The HSE has been sending out the swine flu vaccines to general practitioner surgeries that never sent it any documentation whatsoever. There is a serious need for the Minister for Health and Children, Deputy Harney, to state that she is responsible for something and to look into what is going on with this potential pandemic in the health care system. At present, my gut instinct is that it is a mess.

Since this is the 60th anniversary of the foundation of the Republic by former Taoiseach John A. Costello, some time in the next six weeks, before we break for Christmas and this year is finally over, we might in some way acknowledge the sacrifices of all the men and women who contributed in the past centuries to bringing about a Republic of Ireland.

Senator Mary M. White: On reflection, listening to Senator Ormonde speak of looking at people's attitudes to work, it is not so long ago that people had a job for life in the Civil Service, the bank, Guinness or some institution, but society, industry and the economy no longer work like that. We are living in a globalised economy where industries move at a whim. It is important to put on record that from 1986 to 2000, Ireland's wage rates were competitive and that was one of the main reasons there was full employment. Subsequently, there was rampant wage growth but the sustainability of the economy was camouflaged by the revenue coming from stamp duty and from property. Since the international crisis arose in the financial sector, led by the drop in interest rates, we in Ireland cannot compete. Ireland is almost unique in the world as being totally dependent on overseas markets. Practically all our income is generated from the export of goods and services. We are not competitive at present. As the Leader will be aware, for a number of months I have asked that the Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Coughlan, come into the House to present the plan for restoring Ireland as a competitive country so that we can get back to the position of full employment. At present, the unemployment rate is 12.5%. Unemployment is a frightening state for a person. It is the most debilitating position to be in. I also want a debate on entrepreneurship and its contribution to how we in this country react to the new global economy.

Senator Rónán Mullen: I agree with Senator O'Toole's comments. I would like to hear from the Minister for Education and Science in this House at the earliest opportunity concerning issues such as the funding of minority schools, Protestant schools in particular, to which I referred last week; the funding of chaplains, given that chaplains are not funded in our voluntary schools despite the very important work they do at a time when we are all concerned about mental health, particularly among young men; and in regard to issues such as supervision and substitution.

One of the issues I hear from teachers is their great regret at the loss of balance in staff rooms, for example, as younger teachers are lost because they have not served the full time. Without in any way being ageist about this, there is a recognition that the difference of ages in a staff room can contribute greatly to the life of the school. That is one issue. However, we should not scapegoat older teachers, particularly, as Senator O'Toole said, based on figures that have no real relevance because of the different economic climate that pertained and because they are the ones who are available to do the work. I would like to hear from the Minister in this regard.

Like Senator Norris, I do not know what to make of this new vehicle known as the special purpose vehicle, which sounds a not very environmentally friendly type of machine. The one issue that recurs in most people's minds in this regard is the importance of safeguarding the public interest. Given it was the failure to have regard to the public interest that largely led us into the economic situation we are now in, people want to know that if there are profits to be made in the future, they will not be lost to the State.

I read today that there is a proposal from IMPACT for a one-day strike on 24 November, which is to be discussed by the public sector unions. Anybody who is considering strike action needs to have their head examined. That is not the way to advance the interests of this country at a time of major crisis for us all. I hope people will be responsible in the leadership they give over the coming weeks so they do not drive themselves down alleys which will hurt us all.

Senator Jim Walsh: I find myself in agreement with Senator Twomey that we should have a debate——

Senator Liam Twomey: I must sit up for this one.

An Cathaoirleach: There should be no debate across the floor.

Senator Jim Walsh: —which would be opportune given we are at the sixtieth anniversary of the declaration by the former Taoiseach, Mr. John A. Costello, of a Republic when he was in Canada. There seems to be something about Fine Gael leaders taking everybody by surprise on social occasions. I understand from the history books that it was a major surprise at that time.

Senator Liam Twomey: It took you by surprise, anyway.

An Cathaoirleach: Order, please. There should be questions for the Leader, not debate across the floor.

Senator Liam Twomey: You were there long enough to do it yourselves.

An Cathaoirleach: There should be no questions from the Opposition side.

Senator Jim Walsh: I ask the Leader for a debate on this subject and on the broader issue referred to by the Senator concerning all of those who played their part, in their own way — many made the ultimate sacrifice — during the foundation of the State and in the creation of the democracy, freedom and independence which we enjoy.

Senator Donohoe and others referred to waste. I listened with interest to what was said with regard to Iarnród Éireann at the joint committee yesterday, and we have also had discussions in regard to FÁS in the not too distant past. I call for a debate in the House on the need for consideration of public sector reform. Whether one is in the private or public sector, elements of waste creep into the operations of business. In the private sector, they will tend to come under the microscope because of the pressures on margins, profits and the like, but this does not happen in the public sector and, as a consequence, the waste tends to become compounded rather than being eradicated. We should look to that issue.

People at middle and senior management level in the public sector are now very handsomely paid. The least the taxpayer who is funding this can expect is that performance is commensurate with the salaries such staff are enjoying. I ask that we have a debate where we hone in on this issue so that, where people are found not to be meeting their responsibilities, they would be held to account and, ultimately, their continuation in their jobs would be a consideration. Conservatively, I think somewhere in the region of €2 billion to €3 billion could be identified in savings. As Senator Twomey said, it would be a small percentage of the total required but, nonetheless, it is a start.

Senator Eugene Regan: I refer the House to the CSO crime figures for the last quarter, which show the crimes of burglary, murder and robbery all increased. In particular, burglaries and aggravated burglaries increased by between 26% and 50%. This happens at a time when the Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, has rejected Fine Gael's home defence Bill. The figures show the abject failure of the Minister in the war on crime.

The Minister may seek to take some comfort from the spectacular success of the enforcement agencies in arresting nine people in Greenore after the discovery of 120 million contraband cigarettes valued at €50 million. However, the spectacular success of Customs and Excise and the Naval Service in this regard only highlights the enormous problem of smuggled cigarettes which fuels organised crime and terrorism. There is speculation of a link with the Real IRA in this trade but the Minister has not made the issue a priority. The retail trade believes one in three packets of cigarettes are sold without excise duty being charged. The Revenue Commis-

[Senator Eugene Regan.]

sioners estimate they lost €387 million in 2008 and will lose up to €1 billion in 2009 as a result. I have not heard the Minister for Justice, Equality and Law Reform speak about this issue or suggest it is a priority for him.

I refer to the debate on reducing the limit for drink driving. The former Taoiseach gave a commitment to introduce mandatory alcohol testing at road traffic accidents where injuries were sustained. Fine Gael tabled a Private Members' motion in the Dáil on 12 October 2007 calling for a Bill to introduce mandatory testing. This is the only way we can know the link between alcohol usage and accidents on our roads. Before that debate took place, the Minister for Transport, Deputy Noel Dempsey, announced that he would introduce legislation as appropriate. Will the Leader ask the Minister what has happened to his initiative and the Bill which he promised? Consistency on the Minister's part would be welcome.

Senator Pearse Doherty: I echo the calls for a debate with the Tánaiste and Minister for Enterprise, Trade and Employment to discuss unemployment. Senator Mary White referred to an unemployment level of 12.5% but in my constituency, which is also that of the Tánaiste, it stands at 30% of the workforce. It would be apt to have a debate but whether she would have any suggestions is another question. The debate would give the different political parties the opportunity to discuss, in a structured way, their proposals for getting Ireland back to work.

Last year I tabled an amendment calling for the reduction in the rate of VAT when the Government was proposing to increase it by 0.5%. The Minister said we could not afford to reduce VAT because we would lose more than €200 million. InterTrade Ireland will attend a meeting with the Joint Committee on the Implementation of the Good Friday Agreement tomorrow and will talk about the effect cross-Border shopping is having on the economy in this State. Up to €810 million will be lost so we need a stimulus package to inject confidence back into the retail sector, especially in the Border areas. If the Tánaiste can make her way to the Seanad Chamber I will ask her to address that matter.

I also call for a debate on Irish unity. During statements on the Good Friday Agreement I made the point that all parties refused even to murmur the words "Irish unity". If we are able to talk about what happened in Canada 60 years ago we should be able to discuss how this State lives up to the aspirations in the copy of the 1916 Proclamation which is hung in the front hall of the Houses of the Oireachtas. I say "copy" because the real proclamations are sold at the auctioneers across the road at Easter time. How do we live up to the ideals presented on the steps of the GPO so many years ago? Have we made a half-arsed job of living up to the dream of the republic which Pearse and Connolly had? How do our political parties aim to bring that about? That leads me to my final point. I am disgusted, sick, sore and tired of this public sector bashing, time and again, by the Fine Gael Party. We talk about waste in the public sector, but we are sitting in one of the biggest causes of waste in that sector, this Chamber and ourselves as Senators. We are failing to reform the Seanad.

An Cathaoirleach: The Senator's time is up.

Senator Pearse Doherty: We talk about attacks on teachers, but I have not heard a Fine Gael Senator or Deputy mention the fact that Deputy Enda Kenny should not have received payment for being a teacher when he was a TD, or Deputy Dinny McGinley and many others who continue to get a teacher's salary.

An Cathaoirleach: The Senator has gone over his time. I call Senator Cummins.

Senator Paschal Donohoe: What about Gerry Adams getting his MP's salary, yet not going over to Westminster?

Senator Pearse Doherty: In addition to having ministerial jobs and pensions, they are denying new recruits the ability to enter into full-time teaching jobs.

An Cathaoirleach: Senator Doherty should resume his seat.

Senator Pearse Doherty: There is waste therefore, but it happens at the top level, not just at the bottom. Let us have an honest debate about it.

An Cathaoirleach: I will not call on the Senator any more if he does not observe the rules of the House.

Senator David Norris: This is a House of order, which explains the outburst.

Senator Maurice Cummins: I wish to speak on crime, something about which Sinn Féin has been well aware over the years.

Senator Liam Twomey: They have a lot of experience.

Senator Maurice Cummins: For a number of weeks I have been asking for the Minister for Justice, Equality and Law Reform to attend this House to discuss a number of items, including prison overcrowding, the amount of drugs in prisons and attacks on the elderly. We saw the statistics yesterday, which show that burglaries are up significantly. For the first time, the Garda Commissioner has said that something drastic will have to be done. The Government is perceived as being soft on crime. It is a far cry from the policy of zero tolerance that was advocated by the same party not so long ago. The Minister should attend the House to address these problems, which people want to see solved. He should not address them over the airwaves, he should be here to speak about the policies necessary to tackle law and order. People should fear the repercussions of breaking the law, but they do not at present.

An Cathaoirleach: Our time for the Order of Business is practically up. There are only a few minutes left. I call Senator Ellis.

Senator John Ellis: On the last day the House sat, I sought a debate on the proposed carbon taxes. I note that since then IBEC and a number of other groups have said they would appreciate such a debate prior to the introduction of such taxes. Has the Leader made any progress with regard to arranging such a debate? While carbon taxes might be desirable in some ways, other aspects could be damaging to our economy. We should have such a debate, therefore, which would also give us an opportunity to go through the submissions we have received from various groups on the proposed carbon taxes. Perhaps the Leader will advise us of the position.

Senator Joe O'Reilly: It is a pity that the Government is all over the place on what will happen in the budget. The Government is sending out conflicting signals to different interest groups and is partly responsible for the fall in bank shares today, together with the ordering of the NAMA legislation. It is a huge problem and for that reason I support Senator Fitzgerald's call for a debate on the economy and the budget. In that debate, we must examine the call from the trade union movement that the top earners in society should pay proportionately in the forthcoming budget.

The wealth that accumulated in the Celtic tiger years has not evaporated and will have to be tackled as well. We should have a wide-ranging debate soon on the budget and fiscal policy. I would like to see a debate on three areas that are impacting on the entire Border region, including my constituency of Cavan-Monaghan. First, 250,000 people are crossing the Border to shop in the North. We need adjustments in the VAT rate and price controls because the

[Senator Joe O'Reilly.]

situation is decimating Border towns. It is understandable that people are doing that in the current circumstances, but we must address the matter.

Second, the fact that Protestant schools are being attacked and closed has huge implications in my area. Poorer Protestants from small farms etc. were boarding in Protestant boarding schools in the provincial towns and they were not privileged or elitist. They wanted, and have the right, given the nature of things, to have their ethos protected in schooling, and I want the Leader to address that.

Courts are being closed down in local towns in my constituency and being transferred to central towns. There is no saving from this because witnesses, as well as the free legal aid people, the gardaí etc., still have to be taken by taxis to the central court. In addition we are taking gardaí out of the local towns and causing a security issue during court sittings. This is a very serious matter and I ask the Leader to bring that to the attention of the Minister for Justice, Equality and Law Reform.

Senator Jerry Buttimer: Through the Cathaoirleach, I clarify for Senator Walsh that John A. Costello was never leader of Fine Gael, but he was an excellent Taoiseach. I clarify for Senator Doherty that the Fine Gael Party has always been pro-public servant and, in that regard, I ask for a debate on this matter. Unlike Senator Doherty's party, Sinn Féin, we do not claim both salaries.

Senator Pearse Doherty: Fine Gael leaders have claimed Dáil salaries and pensions as well as ministerial pensions etc. It is on the record.

(Interruptions).

An Cathaoirleach: Senator Buttimer must address questions to the Leader. I do not want arguing across the floor of the House.

Senator Jerry Buttimer: I have not provoked any comment here this afternoon.

Senator Terry Leyden: Yes, the Senator has.

Senator Jerry Buttimer: I am defending the record of the Fine Gael Party regarding public service. The remarks this afternoon by Senators on the public service are indicative of the fact that we have, through this Government, divided public and private sector workers. Shame on the Leader's Government for doing that.

I ask the Leader for a debate on education. Single-handedly the Minister for Education and Science, Deputy Batt O'Keeffe, has created chaos, dismay and despair and he has axed 1,000 jobs. He has created the difficulties we have today, with young teachers finding it difficult to get jobs. I sympathise with school principals who have to make choices as regards getting replacement substitute cover. It is the Leader's Government that has done this.

I ask for a debate on the role of politics and politicians in Irish society. It is time for such a debate in the context of political reform and as regards the type of politics and governance we want to see. The people are crying out for change. They are unhappy with the regime that is in place and I would like that debate as a matter of urgency.

Senator John Paul Phelan: I join other Senators in asking the Leader to arrange a debate on the crime figures announced yesterday. There are significant increases under a number of headings and most notably in regions such as those I represent in a large rural constituency. Many elderly people, particular those living alone, are in a state of fear. The announcement in

the McCarthy report that further rural Garda stations would be closed has added to this. I know the Minister has indicated he will not implement that recommendation, but we should have a pre-budget discussion in the House on the crime figures and their implication for policing at community level across the country in the light of the cutbacks we know are coming in the budget.

I have asked the Leader on a number of occasions to have a debate on school transport, but we have not had it. I am told the Minister of State, Deputy Seán Haughey, is doing something, but I would like to know what it is. Perhaps we could have a discussion in the House on the outdated catchment areas for primary and secondary schools across the country, which mean thousands of children cannot be transported to the schools nearest to where they live. The catchment area rules were drawn up in the 1960s.

I join Senators Fitzgerald and Prendergast who asked for urgent action to be taken on cardiac operations at Crumlin children's hospital. Baby Joy and her family, as well as hundreds of other families, find themselves in vulnerable positions. Surely to God, despite the country's economic circumstances, if we cannot ensure the health and well-being of the most vulnerable, sick children, we are at nothing and we should all give up.

I join other Senators in asking for a debate before the budget on its formulation. Perhaps, as Senator Norris pointed out, there should be a rolling debate on that issue during which Ministers could come to the Seanad and discuss what is being talked about at Cabinet level and elsewhere. We might be able to have some useful input before the announcement is made on 9 December.

Senator Lisa McDonald: I ask for a debate on the issue of domestic violence. While we need to discuss yesterday's crime figures, I ask the Leader for a separate debate on the issue of domestic violence. I asked for this before and we have not had it yet. Given the media profile it is getting and the fact that crimes against women, in particular, are growing rapidly, we need to consider it. On clarification of the use of the swine flu vaccination for pregnant women, I too support calls for a debate. A woman contacted me this morning, who is living beside a case of swine flu in a housing estate. Her GP tells her he will not provide the vaccination. I do not know what is going on but we need clarification quickly because people are very worried. The woman I refer to is 32 weeks pregnant, and it is a disgrace that such women, who are in a vulnerable state, need to worry about this matter, which could be clarified without delay.

I support calls for the release of Fr. Michael Sinnott, who comes from the neighbouring parish to mine in County Wexford. He is a lovely man and his family are very worried. Senator Labhrás Ó Murchú raised this already today and I wish to be associated with that.

An Cathaoirleach: I call on the Leader to reply and apologise to those Senators——

Senator Nicky McFadden: On a point of order, as I was speaking, the Leader interrupted me to say there was a reply in my pigeonhole relating to the bilateral agreement with Vietnam and the visiting Prime Minister last week. I had asked that the Minister of State, Deputy Barry Andrews, should meet the Prime Minister, but that did not happen. I wonder what the reply is since there is none from the Leader in my pigeonhole.

(Interruptions).

An Cathaoirleach: The Leader will reply——

Senator David Norris: The Cathaoirleach has indicated several times that he must close the debate. We have a ridiculous situation whereby people are dislodged and then others are taken

[Senator David Norris.]

in the middle of the Order of Business. I have pushed several times to have this extended. Obviously the Order of Business should be extended further. It is the only time this House is reported. It appears on “Oireachtas Report” and so on. Let us, for goodness sake, play to our strengths instead of diminishing them and closing us down.

An Cathaoirleach: We have extended the Order of Business. I am trying to abide by the rules and I have indicated to some Senators that they should finish but they are not doing so.

Senator David Norris: I am not referring to the Cathaoirleach. The system is idiotic. One person is standing in the way and he should be very careful about this.

An Cathaoirleach: I hope to take first tomorrow the three or four Members who have not got in today. I ask the Leader to reply to the Order of Business.

Senator Ivana Bacik: As regards getting in tomorrow, those of us who did not get a chance to contribute today were detained on committee business elsewhere.

Senator David Norris: That is the farce of the entire thing.

An Cathaoirleach: Please, I ask the Leader to reply, with no interruptions.

Senator Donie Cassidy: On a point of information, I have instructed my secretary to leave the responses for Senators Healy Eames and McFadden in their pigeonholes at the conclusion of the Order of Business, which I believe is very wise.

(Interruptions).

Senator Donie Cassidy: As the Cathaoirleach knows well, the Independent benches are very ably represented on the Committee on Procedure and Privileges by the long-standing Senator O’Toole. I strongly suggest that his colleagues on the Independent benches liaise with their leader in relation to such matters.

Senators Frances Fitzgerald, Joe O’Toole, Alex White, David Norris, Phil Prendergast, Ann Ormonde, Liam Twomey, Mary White, Rónán Mullen, Joe O’Reilly and John Paul Phelan expressed strong views regarding many issues today, particularly budgetary matters. As we all know, we will have statements tomorrow on the NAMA business plan. My intention is to have at least two pre-budget debates, where colleagues may express their views. As the course of events changes by the month, it is still a long way to budget time and there is no difficulty in having time set aside for this to take place. Today’s set of challenges could be even more serious in six weeks’ time and that is the difficulty we find ourselves in as regards the global downturn.

On the remark made to the effect that the higher earners should pay more, we all agree with that. The facts and statistics show that 4% of people are paying 50% of income tax that is taken in at the present.

Senator Joe O’Toole: They should be paying 90% if fair was fair.

Senator Donie Cassidy: Senator Fitzgerald and others spoke of what is being experienced in Our Lady’s Children’s Hospital in Crumlin. One’s heart would go out to some of the parents and poor unfortunate children waiting for operations there. I will certainly endeavour to have the Minister come to the House as a matter of urgency to deal specifically with what has been taking place. I compliment TV3. One of the patients we saw on television two weeks ago has successfully undergone his operation and, please God, will return to full health.

Senators O'Toole, Mullen and Buttimer called for the Minister for Education and Science to come to the House for a debate on everything to do with his portfolio and particularly regarding teacher substitution as outlined by Senator O'Toole. I welcome yesterday's announcement of six brand new schools. Senators Boyle and Buttimer will be delighted to see that two of them are in the rebel county of Cork.

Senator Nicky McFadden: It is the Minister's county.

Senator Pearse Doherty: There are 1,100 on the waiting list.

An Cathaoirleach: Please, Members, no interruptions.

Senator Donie Cassidy: It is something to give balance.

(Interruptions).

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

Senator Jerry Buttimer: On a point of order——

An Cathaoirleach: Please, no.

Senator Jerry Buttimer: The Leader is misleading the House.

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

Senator Jerry Buttimer: The schools are public private partnerships. Private money is being put in.

An Cathaoirleach: That is not a point of order.

Senator Donie Cassidy: It is good news and should be divulged. It should not be kept secret.

Senator Liam Twomey: There is no worry about that.

An Cathaoirleach: The Leader is replying to the queries raised on the Order of Business.

Senator Joe O'Toole: Is the Minister coming into the House?

Senator Donie Cassidy: Senators Alex White, Boyle and Donohoe spoke about the budget. I again confirm this debate can take place and also include the McCarthy report, the report of the Commission on Taxation and all these issues and challenges facing the Government at present.

Senators Boyle and Prendergast spoke about the report published today on the National Economic and Social Forum. I have no difficulty having time left aside to debate that matter. I have told Senator McFadden the good news of the report in her pigeonhole already.

Many Senators expressed their concerns about customers going north to shop in the North of Ireland. It is a commerce decision by most families at present. The pendulum swings. We were the beneficiaries for many years. The people in the North are the beneficiaries at present. It is certainly a challenge for the Government and I will pass on the strong views to the Minister.

Senator Leyden spoke about the success of the home energy scheme and offered his congratulations to the Minister, Deputy Ryan, in this regard. He referred to the 27,240 homes and

[Senator Donie Cassidy.]

€32 million which has already been a huge success when one considers the huge savings on everything taking place in this area.

Senator Liam Twomey: They have not been done yet.

Senator Donie Cassidy: The Senator also pointed out the challenges regarding 80% of the schools with no hot water. This is an alarming statistic and is something we can really do something about.

Senator Jerry Buttimer: Is the Leader in Government or what?

An Cathaoirleach: I ask the Members to allow the Leader to speak without interruption.

Senator Donie Cassidy: I thank the Senator for bringing it to the attention of the House today.

Senator Norris spoke about human rights issues. We have always been very supportive of the Senator regarding anything he wishes to bring to the attention of the House and to support him with debates from time to time.

Senator David Norris: I seek clarification. Is that a yes or a no?

Senator Liam Twomey: It is a maybe.

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

Senator Donie Cassidy: Senators Keaveney, Ormonde and Regan offered their congratulations to the Garda, the Department and all the agencies following the major haul of cigarettes in Greenore yesterday, which we all witnessed on television last night. We certainly offer our congratulations to them.

Senator Keaveney spoke about the penalties. If the fines are as we hear they are, we should introduce emergency legislation next week to amend the fines. The Senator also spoke about alcohol labelling. I will pass on her strong views in that regard to the Minister.

There were calls for the Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Coughlan, to come to the House to discuss the serious challenge mentioned by Senators Mary White, Doherty and others regarding competitiveness, innovation and job creation to get people back to work. This is the single biggest challenge we all face. I will ask the Tánaiste to come to the House to discuss this very urgent matter.

I say to Senator Coughlan that I gave a lengthy response in the House last week — I will pass it on to his office — regarding Nos. 5 and 9 on the Order Paper, about which he has quite correctly asked me many times. I got an up-to-date response on it last Thursday. I apologise if it has not reached his office by now.

Senator Paul Coughlan: The previous responses were contradictory.

Senator Donie Cassidy: I can assure the Senator it will be in his office. It is being proceeded with. It definitively outlines the status of both those Bills at present.

Senators de Búrca and Regan spoke about reducing the speed limits and alcohol testing. I understand that the Bill will provide for mandatory testing at the scene of all accidents, which we must all welcome. I congratulate the Garda Síochána over this weekend on having 2,000 checkpoints. I was stopped twice on Saturday night and was breathalysed on one of the occasions on Saturday night.

Senator Nicky McFadden: What a waste of time for a life-long pioneer.

(Interruptions).

An Cathaoirleach: Please, Members.

Senator Donie Cassidy: I was slightly concerned, but I had no sherry trifle so it was a zero rating.

Senator Déirdre de Búrca: I want the Minister to come and address the issue before the House because I believe the debate is needed.

An Cathaoirleach: Allow the Leader to reply without interruption, please.

Senator Déirdre de Búrca: There seem to be mixed views within all political parties.

An Cathaoirleach: The point is made. The Leader is replying to matters raised on the Order of Business.

Senator Donie Cassidy: Senators Donohoe and Walsh called for the Minister for Transport to come to the House to discuss proceedings at the Oireachtas Joint Committee on Transport yesterday. Some alarming statistics emerged from that meeting. I will allow all the time that is necessary to debate this report. I know it will return to the Oireachtas Joint Committee on Transport again.

Senator Glynn called on me last week and I had already committed to have a debate on updating the register of electors. I am endeavouring to have this debate take place. He pointed out that under the Derelict Sites Act local authorities have a responsibility in this area, as do the citizens in general. I have no difficulty in having a debate on the matter take place.

Senators Glynn and Cummins also called for the Minister for Justice, Equality and Law Reform to prioritise those vulnerable people who are living alone. Unfortunately, we see the tragedies that are taking place. It is a serious new challenge for the Minister and the Department. Some very close friends of the Senators have lost their lives. Senator Cummins spoke of people in the Waterford area. I am also good a friend of the Barry family. Senator Glynn spoke about the death of the 92 year old man, as reported on television yesterday. This is a serious challenge. We must welcome the fair deal nursing homes Bill that came into being yesterday. It might encourage people if they wish to be in their own area during the day and live in the residential long-stay homes at night time. We never thought we would see the day. I support all the calls to have the Minister update the House on what he will do regarding the challenges facing his Department.

Senators Twomey and McDonald called on the Minister for Health and Children to come to the House. I propose to invite her to do so next week to address the serious challenges arising from the swine flu pandemic, as outlined to the House by Senators Twomey and McDonald. When Senator Twomey addresses the House on this issue we should all take note of what he says because he is a professional in this field.

I welcome the worthwhile proposals by Senators Twomey, Walsh and Buttimer to commemorate the 60th anniversary of the declaration of the Irish republic. I will do all I can to ensure we celebrate this achievement by way of a meaningful debate that will remind people of what was done 60 years ago.

In regard to the calls by Senators Mary White and Doherty for a debate on employment, I have committed to inviting the Tánaiste to the House for that purpose. Senator Regan called on the Minister for Justice, Equality and Law Reform to explain how he proposes to deal with

[Senator Donie Cassidy.]

the trade in contraband cigarettes — I made a commitment to facilitate that discussion. Senator Ellis's proposal for a debate on a proposed carbon tax can be accommodated within our pre-budget debates.

I have already referred to the issue of cross-Border shopping, as raised by Senator O'Reilly. The Senator also referred to the problems arising for Protestant schools in rural areas as a result of the proposed reduction in funding. I fully supported the points made by Senators in this regard last week. Senator Wilson and I are both aware of the issues confronted by Protestant schools in Border areas. Brisha and Finea in my constituency are on the Border and the Protestant schools there have made an immense contribution in our area over the years. Given the small amount of money involved, I hope this issue can be addressed, recognised and acknowledged. Wherever the difficulty arises, the contribution the Department has made in the past 40 years has been very much appreciated by the Protestant community. I hope it will continue.

Senator O'Reilly spoke about the closure of courthouses in small towns and their transfer to larger towns. I understand this is happening throughout the State, and Cavan is no different from Westmeath in this regard, where this change was introduced some time ago. Nevertheless, I fully acknowledge that revenue may potentially be lost to small rural towns as a result.

I support Senator John Paul Phelan's call for an updating of the catchment areas for the school transport service. Such an update is long overdue as the existing catchments were devised in 1963 or 1964, since when there have been great changes and shifts in population. The Minister of State at the Department of Education and Science, Deputy Haughey, is currently addressing this issue.

I have no difficulty in agreeing to Senator McDonald's call for a debate on domestic violence. We all support the call for the safe return of Fr. Sinnott and sympathise with the plight of the Sinnott family at this difficult time.

Question put: "That the Order of Business be agreed to."

The Seanad divided: Tá, 25; Níl, 24.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Keaveney, Cecilia.
Leyden, Terry.

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

Níl

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

Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.

Níl—*continued*

O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Regan, Eugene.

Ross, Shane.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

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

Question declared carried.

Planning and Development (Amendment) Bill 2009: Second Stage (Resumed).

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

An Cathaoirleach: I welcome the Minister for the Environment, Heritage and Local Government, Deputy Gormley.

Senator Jerry Buttimer: I welcome the Minister. I sympathise with and congratulate him on his party’s acceptance of the renewed programme for Government at its recent conference. After two and a half years in government, it is time for the Green Party to allow us to clean up the mess that now exists. I appreciate that the Bill represents an attempt to start the clean-up of the planning sector. I am concerned that this legislation unfairly blames councillors for the woes and ills of the sector. Members of county and city councils have served those who elected them well by representing their interests.

At its core, planning must be about the people. It must be driven by a desire to create new and better communities for the people. To use a new buzzword that has recently emerged in the Irish lexicon, such communities must be sustainable. I welcome any attempt to create accountability in the planning process. To borrow an old cliché, it is time to provide for openness and transparency in the interaction between planners, councillors, other public representatives, land owners and developers of all scale and denomination.

I was worried by the Minister’s reference to the need for a two thirds majority if development plans are to be amended. Like Senator Coffey, I am afraid that this proposal will give significant powers to a small group of people who may use their influence badly throughout the planning process. Senator Bradford referred to the need for substantial change in the scale of design guidelines. People must be helped to operate within such guidelines. There has been significant development in my local area of Bishopstown, just as there has been in many parts of Cork. A development on Curraheen Road is a great building in the eyes of the planners, but some of us do not agree. Design guidelines need to be issued.

The Minister knows better than anybody that An Bord Pleanála needs to be reformed. I question the regulation that allows the board to overturn a decision or recommendation that has been issued by an inspector who has made an evaluation and produced a report. I am familiar with cases in Cork in which the board wrongly overturned inspectors’ reports. While I agree that An Bord Pleanála needs to be reformed, I am a little worried about the Minister’s plans for it.

I will support the Minister if he tackles properly the huge issue of the taking in charge of housing estates. As a consequence of the failure to take vast housing estates in Cork South Central in charge — I deliberately refer to estates that are new and not so new — developers have been able to get away with unfinished business. Local authorities have said they cannot do anything about issues such as public lighting, traffic calming, footpath renewal and road

[Senator Jerry Buttimer.]

surfacing because these estates have not been taken in charge. It is important that we examine this issue and take on board people's concerns.

This is a timely debate in the context of the whole planning process. I am glad we can now make planning work for people. It is important that we say to developers and councillors that permission for developments cannot be given unless community facilities, such as pitches, playgrounds, roads, lighting and traffic calming, are put in place in tandem with such developments and are completed prior to the handing over of such developments and their putting on general sale. Many urban jungles and concrete sprawls have been created in this country. Houses and apartments have been built across vast parts of Dublin without accompanying amenities or infrastructure.

I ask the Minister to examine how the development of certain institutions, which are necessary aspects of community living, is planned in urban areas. He might be familiar with the manner in which the growth of Cork Institute of Technology, University College Cork and Cork University Hospital, to cite three specific examples, has led to significant frustration for local residents. It can be difficult for local people to find on-street parking or avoid traffic congestion. The residents of Bishopstown estates like Uam Var and Melbourn cannot get in or out their gates because people are choosing to park on the road rather than in the CIT or FÁS car parks. The motorists in question are not breaking the law. We have allowed institutions to develop in the absence of ample infrastructural development, such as car parks and park and ride facilities.

As Senator Glynn said on the Order of Business, the issue of enforcement needs to be examined in the wider context of the environment. It is fine to talk about increased efficiencies within An Bord Pleanála, but we should also concentrate on the enforcement of planning decisions by local authorities. This Bill is like the curate's egg — parts of it are good and parts of it are not good. I am frustrated about the dilution of the power of local councillors who have served us well.

The Minister mentioned that members of Fianna Fáil, Fine Gael and the Labour Party have received money from developers. I assure him I have never received a brown penny from a developer. I fought developers when I thought they were wrong. My strong history of constant opposition to unsustainable development in Cork city that does not create a better community has cost me votes among some people. I have an open mind on this Bill. Parts of it are wrong. I commend the Minister on taking this initiative in the first instance. I hope we can change the Bill to make it better.

Senator Jim Walsh: Cuirim fáilte roimh an Aire go dtí an Teach chun an Bhille tábhachtach seo a phlé. I commend the Minister, Deputy Gormley, on his propensity for attending the Seanad and listening to debates when legislation from the Department of the Environment, Heritage and Local Government is being considered here. He has displayed a strong inclination for taking on board the comments and suggestions of Members, which is the essence of what the Oireachtas is about. I acknowledge that he has shown an understanding of his ministerial obligations and responsibilities.

I welcome the Planning and Development (Amendment) Bill 2009, which deals with an issue that has come under the microscope in recent times. The Minister has had a keen interest in planning matters for a long time. His efforts to channel this legislation through the Oireachtas is a labour of love rather than a chore for him. It is important, in light of the serious economic and property downturns we are experiencing, that we consider the extent to which the planning process contributed to the glut of home ownership and, in particular, to inflation in the cost of

residential properties. This is not an insignificant point for very many people as they struggle with negative equity and to meet the cost of increased borrowings.

I welcome many of the provisions of the Bill and I will comment in more detail on some aspects. Development plans and housing strategies must now show compliance with the national spatial strategy and with national and regional plans. That is desirable. There used to be an obligation on councils to “have regard” to national guidelines. The position is strengthened in the Bill by stipulating that separate reports addressing Ministers’ comments be produced. Such a report should highlight how a plan is meeting the national guidelines.

I take on board some of the comments made by previous speakers on this matter. This is the second occasion on which we have been considering Second Stage of this important Bill. Where material changes will be required to a development plan, a majority decision by two thirds of the councillors will be required. This is to ensure there is a democratic decision-making process. This is a kernel of our democracy. Too many people, even in this Chamber and the Lower House, often try to denude the democratically elected people of their mandate and responsibility. I do not agree with this approach. There should be checks and balances in the system to ensure one’s duties are exercised responsibly. I do not know if a majority of two thirds of councillors is the correct majority. I was a member of two local authorities for a long time and noted that elected members invested tremendous time and energy to ensure they made the correct planning decisions. I am conscious that a certain amount of lobbying took place but I do not see anything particularly wrong with that. However, it means those who are making a decision should obviously air their independent views with regard to the quality of the lobbying and the comments brought to their attention.

The Minister served on a local authority, as did many Senators. In the drafting of development plans, quite a bit of lobbying was directed towards officials, particularly county managers, who had primary responsibility for shaping development plans. When trying to strike a balance, the finger must not be pointed continually at councillors, as Senator Buttimer suggested. One must also take into account the overall process. This process starts at official level where the development plan is shaped.

Officials and managers are no less susceptible to lobbying than elected members and I would not make a distinction between them. This is an important balance in the equation that we must seek to protect. The Minister, having discussed this matter with me, is aware that I have long been a critic of the fact that our overall system of local government has invoked the executive powers to a far greater extent than the powers associated with the reserve functions. I strongly believe there is an imbalance and that it is wrong.

I spoke to one of the Minister’s predecessors about local government reform. I was and still am of the view that there should be no executive decision-making powers. All decisions should be made democratically by the elected members, who should be held accountable for them. I advocated that powers be extended to the area of planning. The Minister asked me what I would do in respect of planning and I stated the planning power would be the first I would transfer. If checks and balances were put in place, the inspector of planning would come with his director of services to the corporate policy meeting, which would have to be held weekly. He would make a recommendation and if the members overruled it, their reasons would be recorded clearly in the minutes. That would place responsibility on the members. At present, there is no such system. There are private meetings, the minutes of which are often not recorded and at which one person can influence the outcome of a decision. This is the way the process works under the managerial system. It is not as good as the one I advocate although many people would shy away from the latter on the basis that it could be abused. Abuses would become very transparent very quickly because people would have the power to appeal.

[Senator Jim Walsh.]

Where a local authority is found to be a perpetual delinquent in regard to exercising its decision-making powers, it would be very evident and sanctions would be brought to bear on it.

I make this point because there is a need to recognise the reality. It is too simplistic for commentators to state the democratic process has let us down. In the past over-zoning took place and I objected to it. Equally, I saw local authority areas that were under-zoned, thus leading to a spiralling of land prices. This was equally bad for the economic climate in terms of residential housing.

Modifications to a draft plan can only be minor in nature and must be subject to further consultation. Additional land cannot be zoned and buildings cannot be removed from the record of protected structures. I question the wisdom of that.

Let me raise the issue of the definition of a draft development plan, although it is not contained in the Bill. When I served on a local authority, the plan presented initially by the manager to the council was called the draft development plan. It was examined by the council, which could make amendments thereto before it went on public display. We need to ascertain whether the draft produced by the manager is the draft development plan, to which plan restrictions and inhibitions attach in terms of its being changed. In this regard, I am seriously concerned about the efficacy of the system proposed.

My next point is a moot point but requires very clear definition. If a plan becomes a draft development plan only when the councillors have had their input and it is endorsed before going on public display, that is a different matter and my reservations are taken account of. A plan is put on display for three months. During this period, extensive public consultation is engaged in. The local authority in my area and, I am sure, in other areas have public meetings at which the planning officers involved in the drafting of the plan, who are very familiar with the detail, present the plan to interested parties. Attendees have the opportunity to make submissions at the meeting and subsequently as part of the process.

I have lists of protected structures that were absolutely incomplete and in respect of which a minimalist approach was taken. That was corrected with a maximalist approach. I have great difficulty in that regard.

Refusal of planning permission for unauthorised developments is a good discretion to give to local authorities. I welcome the extension of the duration of planning permissions, which makes a lot of sense in the current economic downturn as sites that have planning permission will not be developed in the next two to three years. The Bill provides for a simple approach to extend the duration of permission.

I question whether levies which were set at the height of the property boom should continue at the present rate. They are an imposition that will affect people trying to acquire houses and will also have an impact on house inflation, as will Part V. I would welcome a review of Part V. Increased densities might lead to savings on CO₂ and in terms of transport efficiency there will be a social cost. The issue should be examined. Rather than take units for social housing perhaps we should consider having more open areas and play areas for children because of the social consequences of some high density developments.

I disagree that An Bord Pleanála should still be given a statutory objective of 18 weeks. It should be a mandatory requirement that it would make a decision within 18 weeks. It is simply not good enough in the current climate when we need to create jobs that appeals on minor developments drag on for up to nine months. I urge the Minister to stipulate that An Bord Pleanála would make a decision within four months unless the development is a major one that requires complex, technical analysis. Time could be allowed for that and a procedure could

be put in place to deal with it. A definition could also be provided for what is a major development.

I have reservations about reducing the quorum from three to two. I accept that two out of three votes will carry the decision but the cross-fertilisation of discussion will be missing from that process, which has its own impact on coming to the right decision. I wished to make one or two other points but as time is up I will conclude.

Senator Paul Coghlan: I welcome the Minister for this debate. I quickly perused his opening address on the Bill and there was much to which I could subscribe. I especially liked his opening comment that planning is about people not buildings. The Minister continued to outline what was important in the following paragraphs, namely, schools, public transport and shops being provided in properly planned, convenient places.

We have seen in many parts of the country that planning has been developer led rather than planning led. Sadly, in a number of towns we have witnessed sprawling growth on one side or another. An even distribution never seems to have been achieved. That is due to developers and land owners petitioning and lobbying hard for councillors to rezone. I did not agree with that approach. I fought against it as a member of two local authorities.

Senator Buttimer alleged at the end of his contribution that the Minister said something about members of my party taking inducements. In the same way as Senator Buttimer, I never took any such inducement.

Deputy John Gormley: I did not say that.

Senator Paul Coghlan: I am sorry. I did not think the Minister did but I was tuning into what Senator Buttimer said. That is neither here nor there. My record as a member of two local authorities is clear. I always opposed such promptings when they came — never accompanied by brown envelopes, nor envelopes of any other colour. I always followed what I thought was correct in the interests of the proper planning and development of the town or particular area in the county.

I fully concur with what the Minister said about people. This matter is not strictly about planning but it is about people. The Minister is probably aware of the blockade in my part of the world on Killarney National Park. I would have thought that mediation was the only game in town. I accept the Minister's motives are good but I do not see the sense in the National Parks and Wildlife Service seeking more time in a court case, which it was granted, and then while that process was ongoing, imposing a lockout. That is neither here nor there. I will talk to the Minister about that on another occasion. I have tabled a request to raise the matter on the Adjournment.

Everything in the explanatory memorandum is laudable, for example, supporting economic renewal and promoting sustainable development, targeted investment on infrastructure and modernising land zoning. It states: "The Bill is driven by the overarching ambition to strengthen local democracy and accountability". In due course in the debate I might be able to point to some contradictions. The explanatory memorandum states: "A key objective in accordance with the ongoing process of local government reform being pursued in the context of the White Paper on local government, by maintaining the central role of local government in the planning process". Again, I very much agree with "maintaining the central role of local government in the planning process". I am also in favour of the "closer alignment between the national spatial strategy, regional planning guidelines, development plans and local area plans". However, that may somewhat distract or skew the Minister's maintenance of the central role of local government in the planning process. It is desirable that, "The location, quantum, and phasing of

[Senator Paul Coghlan.]

proposed development must be shown as well as growth scenarios, details of transport plans, and retail development, and proposals for development in rural areas”.

Senator Walsh referred to the reduction in the statutory quorum for decisions by An Bord Pleanála from three to two. I presume that will only be for routine cases. Senator Walsh’s point was valid, and I am sure it is not the Minister’s intention that decisions on detailed cases would be made by two members. Reference was made to the implementation of the Law Reform Commission’s recommendation on multi-unit developments as they relate to planning. I inquired about that Bill on the Order of Business today. I am unclear as to how it is proceeding based on the response I received from the Leader of the House.

The intention to strengthen the legal effect of ministerial guidelines is outlined in the explanatory memorandum. This could be seen as a move towards centralisation and that would conflict with the earlier stated objective of maintaining the central role of local government in the planning process.

While much of the Bill is technical in nature and represents a tidying-up exercise, some people in local government have suggested that some changes are being provided for in it on the QT, so to speak. The matter concerning An Bord Pleanála is interesting. I note from an article in *The Irish Times* of 9 July 2000 that Mr. Justice MacMenamin was very harsh in what he had to say about the board displaying objective bias. Apparently he regarded its decision as unfathomable and that it did not have a proper reason for overturning the recommendation in its inspector’s report. I regarded that comment as serious because this case appeared before two judges, Mr. Justice Kelly in the first instance and then Mr. Justice MacMenamin. The inspector twice made a recommendation to refuse permission, but that recommendation was overruled. This is a specific case in Kildare but the Minister might comment on it in his response. According to the judgment the board had simply stated that it took a different view and it appears from this article that there was no proper reasoning for the board overruling the recommendation of its planning inspector. I did not understand that was something that was provided for legally and perhaps that was the basis of the judgment. Provision in this legislation in this context could be a move to bring power to the centre, to the Minister and his civil servants, and it may lack accountability to the public. If it is a move towards more regional planning, that could provide for less accountability and would be a retrograde step.

Returning to the Minister’s central point about people, it appears that most planners in towns, counties and in an An Bord Pleanála are urban planners. There are no rural planners as such. Sadly, that is a neglect in our country, much of which is rural. I look forward to hearing the Minister’s comment on this. I accept he might have commented on it already and I missed his response.

I agree with a number of Senator Walsh’s points. I have not served on a local authority since 1999 but Members keep in touch with the local authorities as they are required to do and they receive representations all the time. The power in the local authority lies with the management rather than with the elected councillors. In every instance, the draft comes from the manager and his officials.

I concur with what Senator Walsh said about the need to avoid delays at An Bord Pleanála level. It appears that time taken for it to make decisions are consistently overrunning the limit that applies, but we will discuss the other matter in this respect anon.

An article by Frank McDonald in *The Irish Times* of 15 October 2009, entitled “Bord Pleanála warns on relaxing planning rules”, states:

Mr. O'Connor [the chairman of An Bord Pleanála] said that the public-service reform agenda must include rationalisation of the number of local authorities with planning functions — currently 88 county, city and town councils.

“Many of these authorities have administrative areas that are much too small and fractured to constitute meaningful planning units,” he said, adding that he would not favour “one big monolithic planning authority”.

There is a conflict there and I look forward to hearing the Minister address some of Mr. O'Connor's points.

The requirement in the Bill that amendments to draft development plans and variations to development plans will require support of at least two thirds of the council will need to be revisited. Similarly, a resolution to make or amend a local area plan will require the support of two thirds of the council, and the support of two thirds of the council will be needed to grant planning permission to a development that would contravene materially the development plan. The legislation provides that the Minister plans to extend his power so he or she could issue a direction on a local area plan and he or she already has similar powers in respect of a development plan. With respect, that represents centralisation. I do not disagree with the evidence-based strategy requirement. However, the two thirds requirement could allow spoilers to oppose a worthwhile proposal. In other words, it is anti-democratic in its thrust in that it gives huge power to a minority, to a rump that could form in a council, and it could have a hugely detrimental effect. I would like the Minister to explain the rationale behind that move.

Senator Dan Boyle: The Local Government (Planning and Development) Act 1963 is thought off as seminal legislation in our legal canon. It was important in that it drafted, for the first time, legal principles on planning. It is disappointing that the means to enforce the principles included in that Act were never applied. The 1960s were seen as a time of attack on our built infrastructure. There were many campaigns to protect Georgian Dublin and the required personnel in local authorities charged to put in place these planning principles under the new legislation did not exist in many county councils until 30 to 40 later.

The planning process in many local authorities gave an undue amount of authority to the county or city manager and the development of a trained planning core has slowly come into being in many local authorities. Despite that, there is an imbalance in many local authorities in terms of their structures and their capability to define properly what is good and bad planning.

I listened with interest to Senator Coghlan's contribution and I am not sure if I would fully support what he said about the need to make a distinction between urban and rural planning. As far as I and my party are concerned, there are only two distinctions in planning — good or bad planning.

Senator Paul Coghlan: Absolutely, I was referring to the qualifications of planners.

An Leas-Chathaoirleach: Senator Boyle to continue without interruption.

Senator Dan Boyle: I will get to that point. Access to services, the existence of a transport infrastructure, the provision of key elements of infrastructure such as shopping facilities, schools, access to Garda stations and libraries are the principles that should inform the proper planning of any community but, sadly, they have not done so in too many of our communities.

While the 1960s were a time of trying to protect, fruitlessly in some cases, the built infrastructure, the 1970s was the start of a period of rampant development, underpinned by the notion of building anything anywhere. We saw that, both in terms of private developments and local authority developments, where one of the distinctions between the local authority being both

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a development authority and a planning authority came very much to light. We would not have had communities such as Ballymun in Dublin, Knocknaheeny in Cork or South Hill in Limerick if planning principles existed in local authorities.

The 1980s and 1990s became periods where those bad planning principles were translated completely into the private sector and where Dublin, in particular, became overrun with a vast urban sprawl for which we are still paying the price. Of course, that was informed by a level of corruption with which we are still dealing in what was the Flood tribunal and is now the Mahon tribunal, and we await the findings of that tribunal with interest. However, there was a coalition of developers, people within local authorities, which is regrettable, and people within the political process who helped bring about an Ireland which is not the Ireland it could have been. That, above all else, is why planning legislation has failed in this country.

Senator Paul Coghlan: That was a minority.

Senator Dan Boyle: I would argue that much of the planning that has occurred over the past 30 years has been bad planning. That is to our shame as a country and to our failure as a political system.

The bits of planning legislation there have been since 1963 have only involved tinkering around the edges. Senator Coghlan spoke of the overuse of what was section 4 and, I believe, is section 32 in more recent legislation——

Senator Paul Coghlan: Section 140.

Senator Dan Boyle: ——to overturn the decision of county managers in particular planning decisions. The rules in relation to three quarters in a local electoral area and two thirds of a local council are meant to be a constraint in preventing that being done.

Senator Paul Coghlan: These are for variations of plans and adoption of plans, not for initiatives under section 140.

Senator Dan Boyle: Of course, they are for material contraventions and amendments of the development plan itself. Because these things have happened, and in a quite cynical way, all of us who have been involved in local government have seen where political parties collectively have protected their representatives where a controversial planning application has been made to allow their three, four or five councillors in that area to vote according to their conscience while the other party representatives vote in requisite numbers to allow the planning either to change or to go ahead unhindered. That has reflected badly on the political process. In fact, the process should change to ensure that in voting for particular planning, the matter must have required support among the elected representatives of the area concerned.

Senator Paul Coghlan: Absolutely.

Senator Dan Boyle: The Minister for the Environment, Heritage and Local Government, Deputy Gormley, has earned a reputation among some county councils for intervening more than his predecessors. The two interventions he has made have been more than justified. The interventions in Mayo County Council and Monaghan County Council raised serious questions about the scale of development that was being proposed which was far higher than that warranted by the population of the area and by the likely population for many decades to come.

One of the more valuable aspects in proposing the changes in the Bill is that the Minister has supplied a list of some of the main urban areas and how they have been proposed to be

overdeveloped in years to come. Dundalk, which is one of major urban centres, already has enough zoned land to see it through to 2075. There are examples of urban areas in this country where the zoned property is three times the existing built property and the needs of the population of the areas. That is madness. In fact, it verges on the obscene to abuse a planning process that does not look——

Senator Paul Coghlan: I certainly was not arguing for that.

Senator Dan Boyle: ——at present needs and does not build towards future progress in the communities concerned.

Much of the debate on planning in this country has been about blind alleys. There has been much talk about one-off housing. Most of the planning permissions in this country are for one-off housing. There are said to be difficulties in obtaining such permission, especially for family members. I must admit that has not been my experience, not only as a Member of this House and the other House where my constituency was a mixture of urban, suburban and rural, but also in my private life as a rural community development worker with Muintir na Tíre. The question we have never asked ourselves in this debate is why Irish settlement patterns in rural communities are different from those in rural communities in other countries. In other countries with similar patterns of small-sized farms and similar spatial population the rural settlement policies are nothing like the Irish experience.

In fact, in another of my employment experiences, while working with the then National Rehabilitation Board in what was a vast area, what in church terms is known as the diocese of Cloyne, the largest Roman Catholic diocese in the country which takes in the north and east of County Cork and is one of the biggest geographical areas in the country, one of the main areas of work with which I had to deal was persons with psychiatric difficulties living in isolation. There are difficulties in not having an effective planning policy that takes account of people living in isolated areas and the cost of the services to each individual housing unit. Such difficulties result in the failure to achieve a cohesive community. It is amazing that rural Ireland works so well despite that. Rural communities operate to a higher level than urban communities where people live on top of each other. Despite that, they are properly more distant from each other than their rural counterparts. However, that does not change the fact that in rural communities it costs more to provide services for people living in these communities and we must achieve an appropriate balance.

I do not see why there should be a difficulty, not in discouraging one-off housing but in encouraging greater town and village development. I must admit I find it difficult to understand the arguments that have been made along these lines in the past 20 years. One organisation for which I have had much time in the past is Rural Resettlement Ireland, which established itself to rebuild the fabric of deserted properties in rural Ireland and quickly changed its reason for being as a defence of one-off housing in any circumstances in any location, which is not a good use of planning principles.

The reason this Bill needs to be supported is that we need a planning system that suits the needs of the 21st century. We need to ally the broad principles that existed in the 1963 Act with the further improvements that were introduced such as limiting the power of the manager and the elected representative and introducing An Bord Pleanála so that there is greater cohesiveness and consistency in the planning process.

As someone who has been an activist on local grounds, I share the frustration that many Members of this House and persons in public life must feel about An Bord Pleanála. It has made many decisions that have been the right decisions, but it has made decisions that seem beyond explanation for reasons that cannot even be understood when an official explanation

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is offered. One of the saddest grounds on which An Bord Pleanála has either accepted or overturned decisions in the past is its refusal to state that a particular planning decision should be made on sound planning grounds but rather that sound planning grounds are overridden by whatever Government policy is at a given time.

I hope with this legislation and with legislation that is to follow soon that the principles underlining any planning decision and any development plan would always be based on sound planning, that there would not be political or commercial criteria and, above all else, that it would be the needs of the people living in the immediate area that would get prime consideration. After almost 50 years of planning legislation in this country, we have yet to get that balance right.

I applaud the Minister for the efforts he is making in this initial legislation. It is the most significant planning Bill since 1963. It will change the Statute Book in the right direction in a way that it has not been changed to date and I look forward to the House making further improvements to ensure finally we can have a planning system in which the citizens can have faith.

Senator Maurice Cummins: I welcome the Minister of State, Deputy Sargent. Like Senator Boyle, I compliment him on bringing the Bill to the House. There are some aspects of it which are very important and with which we agree, while there are other aspects with which we do not agree. However, it is a genuine attempt and, as Senator Boyle said, we can make the necessary amendments on Committee and Report Stages. While we will never satisfy everybody, we can do our best to improve the Bill as much as possible.

5 o'clock The explanatory memorandum states: "The purpose of the Bill is ... supporting economic renewal and promoting sustainable development by ensuring that the planning system supports targeted investment on infrastructure by the State and further modernising land zoning". That is laudable and nobody could disagree with such aims. How we achieve it is another matter.

A number of items arise. An Bord Pleanála has been mentioned by a number of speakers. I see no problem in reducing its quorum from three to two. My difficulty, however, is that we have seen many An Bord Pleanála decisions go against the recommendations of its own inspectors. For the ordinary person in the street, this is difficult to understand, particularly where professional inspectors inspect sites and give a recommendation only to be overruled by two or three members of the board. Nobody could consider that as a transparent system, and it needs to be examined.

Over the years, there has been much scepticism about decisions made by An Bord Pleanála. It is said it is made up of faceless people and that there is very little transparency to their decisions. Some credence must be given to that viewpoint. The issues involving An Bord Pleanála need to be addressed further than they have been in this Bill, which is somewhat superficial in this regard.

I agree that development plans should be in line with regional planning guidelines. We are proposing in this Bill that this should be mandatory rather than such plans simply "having regard to" the guidelines, which was the term used in the previous Act. Nonetheless, we will have to beef up the regional authorities in a major way. I sat on a regional authority and know their members will have a greater need to be acquainted with the problems and plans of the local authorities within their areas. At present, this issue is not being addressed within the regional authorities. More meat will have to be given to them to address the greater role it is intended they would have under the Bill.

Some of my questions on planning are addressed in the Bill, particularly with regard to developers and unfinished estates, which is a major problem in many areas. The whole question of the bond causes major difficulty. Developers put a bond in place to pay for unfinished estates but if they go out of business, the value of that bond is often not sufficient, and it needs to be increased. Moreover, local authorities will claim the use of the bond is worth very little in the context of having it as a stick to hold over developers to ensure they finish estates. I am sure we have all come across such estates. Only recently, I received correspondence from residents in Dunmore East in my constituency who have a number of items that have not been addressed.

There is also a situation where the developer who got the original planning permission may have gone out of business or sold on the other part of the land to another company, in which he may be a sleeping partner — who knows — and that company can then apply for permission and there is no black mark against it. There are not sufficient penalties for developers who do not finish estates.

This is also a problem for local authorities, which do not have the funds to meet the cost of repairs to footpaths, green areas, roads, lighting and so on that are deficient when these developers walk away from the system. It is just not good enough and to expect local authorities to pick up the tab where there is not enough money available through the bond is not acceptable. We are cutting local authority finance and to expect local authorities to finish estates where developers have walked away, perhaps through no fault of their own but in some cases through their own fault, is not acceptable. The question of responsibility for unfinished estates and the raising of the amount of the bond are issues that badly need to be addressed, and it should be done in this Bill.

There is another area of planning which I am surprised the Green Party has not addressed to date. Throughout the country, we can see in fields close to roads, particularly roundabouts, lorries and trailers carrying advertising. Any wheeled vehicle is exempt from planning. I would call the advertisements placed on broken-down trailers and lorries in the middle of fields and unsightly caravans litter. This is a blight on the countryside, a greater blight than many of the issues discussed here today. I hope this issue will be addressed in the planning guidelines and planning legislation. When one asks about these vehicles, one is told they are exempt from planning regulations because they are on wheels. I might add they have also been used by political parties which have used this exemption to promote candidates and parties, a practice I disagree with. It is a blight on the countryside and should be addressed in a Bill such as this.

Some sections of the Bill will add greatly to bureaucracy, particularly those concerning the interaction between regional authorities. There is certainly a need for interaction between the plans of local authorities, regional authorities and the national spatial strategy. However, the national spatial strategy was introduced by one Minister of one Government. Another Minister can change that policy without reference to any of the local area plans or the regional authorities. The national spatial strategy is a political measure but who was it overseen by? It is used by county managers and others when it suits them but it is not used on other occasions. Waterford is a gateway city. Under the national spatial strategy it was geared for all sorts of things but they have not happened. Other towns in the region are being promoted at the expense of Waterford city. People ask about the national spatial strategy but political expediency exceeds it whenever it is deemed necessary.

Section 5 deals with the promotion of sustainable settlement and transport strategies in urban and rural areas, including taking appropriate measures to reduce man-made greenhouse gases. We all support that objective but it is a very broad statement. In the early days of our urban jungles, in which flat complexes were simply thrown up, I was criticised for opposing them and

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some critics accused me of being anti-development. These complexes have continued to be built in the past ten years but they are now turning into ghettos.

I would never support houses being built on every acre of land around the country but the monstrosities in cities and small towns show that the building boom was not geared to people but to developers so that they could make a quick buck at the expense of the Exchequer or others. Who could blame them when the Government advocated and fuelled the policy? The bubble had to burst and now the people who had no hand, act or part in the creation of the problem are suffering. They will suffer most at the next budget, not the developers, not the bankers and not the politicians who have been responsible for this economy in the past ten years. It is unacceptable that ordinary people, including public servants, should suffer because of the mistakes of others, but that is what will happen.

Senator Déirdre de Búrca: I welcome the Minister of State and the opportunity to debate the Planning and Development (Amendment) Bill 2009. This is very important legislation of which the Green Party, particularly the Minister for the Environment, Heritage and Local Government, Deputy Gormley, can be very proud. If I have any regret it is that the Bill is only being introduced now, after a huge amount of damage has been done by irresponsible planning policies during the Celtic tiger period. It is unfortunate that, when the property bubble was inflating and we had a huge amount of development across the country, we did not have legislation such as this. Instead, we will be left with the legacy of irresponsible planning, something of which we will become aware during the NAMA process, when white elephants in the form of rezoned land which never had development potential and apartments, built in rural areas, which were neither necessary nor in keeping with the local landscape, will become apparent.

We will have to face up to the irresponsible practices which reigned during the developer-led boom. I hope this legislation ushers in a new, smart era of planning. The relationships of economic renewal, development and proper planning are very strong. If we plan according to proper criteria we will encourage economic development. One of the purposes of the Bill is to ensure that the national spatial strategy, a rational plan for how we roll out infrastructure across the country, will be consistent with regional planning guidelines and development and local area plans so that there will be synergy in the various levels of planning.

Having been a county councillor on Wicklow County Council for eight years during the development boom, I was always struck by the lack of synergy in the national spatial strategy, strategic planning guidelines for the Dublin area, county development plans and local area plans. While higher level plans, such as the national spatial strategy and regional planning guidelines, required local councils to have regard to the overall strategy, they seemed to completely disregard it and drew up development and local area plans as though they were free to zone wherever they wanted according to their own rationales, instead of following a more coherent national approach in line with the Government's commitments to both physical and social infrastructure. In the case of Wicklow, there was massive over-zoning of land without the infrastructure to back it up. Land would be zoned regardless of whether there was a commitment to provide the necessary infrastructure and the price of the land would shoot up as a result. The individual or developer who owned the land benefited significantly but it contributed little to the proper development of the county. The process of drawing up development and local area plans in Wicklow was *ad hoc* and based on who knew whom and who had a word in a councillor's ear to exert pressure.

It would not be tolerable to continue that approach to planning so this Bill, into which the Minister for the Environment, Heritage and Local Government, Deputy Gormley, has put so

much time and thought, is very welcome, even if it would have been much better had it been produced during the life of previous Governments when the building boom was at its height. In his analysis of zoning patterns around the country, the Minister has concluded that enough land is currently zoned to provide development land up to 2075. In their enthusiasm to zone land, certain councillors provided for a population which will be here long after those councillors have passed away. It is important to build some headroom into a local area or development plan, but the year 2075 is 66 years away. Rezoning enough land for six or seven decades, when the lifetime of a development plan is five years, is ridiculous.

The Bill before the House will require that local authorities have an evidence-based core strategy which underpins their development plans. In other words, they must have a sound evidential basis for the development plan and for the housing strategy which examines population trends to ensure it is based on realistic projections. The Bill will also ensure there is total consistency between local area development plans, regional planning guidelines and the national spatial strategy. It will result in a more focused land use strategy, which is badly needed. More focused land use strategies will result in a more efficient use of taxpayers' money by allowing the State to target more accurately investment in essential infrastructure and services.

It is to be hoped the Bill will mean we will have a more compact land use strategy, which will help to ensure the proper provision of physical and social infrastructure. As we are aware, there is a lot of infrastructure that needs to be modernised and developed, including waste water treatment facilities. We also need schools, community facilities, roads and public transport infrastructure. I hope that the proper, coherent planning envisaged by the Bill will make it more feasible for Governments to be confident about investing in public transport in future. We need to bring public transport up the standards we can see in other countries, including many EU member states. We will not be able to do so, however, unless we ensure planning and land use happen in a focused and reasonable manner, based on proper population projections. Scatter-gun, *ad hoc* development makes it very difficult to plan for proper infrastructural provision.

The Bill will result in stronger management of land zoning. It will ensure the location, amount and phasing of land zoned for development is more closely linked to the Government's economic policy, including the national spatial strategy, regional planning guidelines and capital investment programmes for national infrastructure.

There are other positive elements in this legislation. I note that the making or variation of a development plan or local area plan will now require the support of two thirds of the total membership of a planning authority instead of a simple majority. I am delighted to see this. I recall debates being held between councillors who wanted to promote a particular zoning about whether to go for a material contravention or a variation. Very often, the variation was chosen because it only required a simple majority of councillors. In discussing land zoning, we must ensure a significant majority of elected members of a council support a zoning according to clear criteria. For that reason, this change in the legislation is welcome.

The legislation will ensure that only minor amendments will be permitted to draft development or local area plans which have been the subject of public consultation. That is a welcome provision. In my own experience of local area plans and the Wicklow county development plan, such plans go on public display followed by a reaction from the public and developers. However, very often at the last stages of a development plan, elected members would introduce large-scale rezoning which would be thrown into the mix late at night. Planners often had to work hard to try to have those zoning proposals modified or thrown out. It was an inappropriate practice, but the Bill will ensure such practices no longer happen.

[Senator Déirdre de Búrca.]

Ministerial guidelines will have greater legal force under this legislation. In all the statements that go into a development plan, the local authority will have to show how it complies with the guidelines set down by the Minister for the Environment, Heritage and Local Government. The powers of local authorities to refuse planning permission to applicants who have been convicted of serious breaches of planning legislation are strengthened under this Bill. In addition, the use of e-planning will be improved and made more widely available. In this day and age, we need a greater use of e-planning which will make the planning code more efficient and sustainable in the long run.

I welcome the Bill and congratulate my colleague, the Minister for the Environment, Heritage and Local Government, Deputy Gormley, on introducing it. It is substantial and important legislation that will ensure proper planning for years to come. We must put the past behind us and hope that from here on, once the Bill is enacted, we will see the right kind of planning in this country.

An Cathaoirleach: I call Senator Ryan who has 12 minutes remaining. However, he has four minutes before I must ask him to report progress. He will be first to contribute when the debate on the Bill resumes.

Senator Brendan Ryan: I welcome my constituency colleague, the Minister of State, Deputy Sargent, to the House. On the previous occasion, my colleague, Senator Hannigan, broadly welcomed the Bill on behalf of the Labour Party, as do I. We intend to table some amendments on Committee Stage, however, to improve the legislation.

I wish to make a few brief points. According to the explanatory memorandum, section 20 will empower planning authorities to refuse permission where the applicant has previously carried out a substantial unauthorised development or has been convicted of an offence under the planning Acts. I am not sure how far that will go or what the Minister intends with regard to this element of the Bill. However, I think it should go beyond the specifics referred to in the explanatory memorandum and, if necessary, I will table an amendment to that effect.

The previous track record of developers must be taken into account in a variety of ways. As the Minister of State will be aware, there are many estates in north County Dublin where developers have abandoned sites leaving unfinished estates. They have moved on to the next estate, however, having obtained multiple planning permissions. This causes massive problems for the residents concerned. This is particularly the case in Balbriggan and Swords where problems have arisen with unfinished estates. Residents are unable to move on and settle their affairs. They become engaged for far too long in trying to solve these problems. Local councils cannot take charge because the estates are unfinished. It would be a major advance in planning legislation if these matters could be taken into account fully, including the potential for local authorities to refuse planning permission in such cases. I hope that can be done.

I also wish to discuss general planning enforcement because there is potential in the Bill to do something positive about this issue. I have a general decision from Fingal County Council which goes with every decision where permission is granted. It basically says: "I recommend a decision to grant permission." It lists conditions and reasons, however, and the first condition is: "The development is to be carried out in its entirety in accordance with the plans, particulars, specifications and information lodged with the application, save as may be required by the other conditions attached hereto."

If only that were the case. In many instances developers go ahead and infringe against what they have been permitted. They carry out things that, perhaps, they have been asked to change. They ignore the conditions and do what they had intended to do initially, which is not in

keeping with the conditions. If that happens and they are not in compliance with the conditions, perhaps someone will notice and there is an opportunity to report the matter to the local authority. However, if it is not noticed the likelihood is it will never be discovered.

In the case of a neighbour, perhaps, reporting such a breach to the local authority, the complaint is made, the inspector despatched to take a look at the issue and the decision made.

An Cathaoirleach: As it is 5.30 p.m. I must ask the Senator to report progress. He will have eight minutes of his time left when the Bill resumes.

Debate adjourned.

Appointments to Public Bodies Bill 2009: Order for Second Stage.

Bill entitled an Act to reform the appointment process of chairpersons and board members of public bodies and certain other special positions.

Senator Shane Ross: I move: “That Second Stage be taken today.”

Question put and agreed to.

Appointments to Public Bodies Bill 2009: Second Stage.

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

Senator Shane Ross: I would first like to congratulate Senator Boyle on the introduction of this Bill in the Dáil in 2007. It should be noted that this Bill is identical, bar the date, to the one introduced by the Green Party and supported by all members of that party in the Dáil debate. On this side of the House, therefore, those of us supporting it are expecting a certain consistency from them. I am sure it is fair enough that they will go through the lobbies in support of this Bill and we await the vote at 7.30 p.m. to see whether they do. Senator Boyle is a very inspired and enlightened Member of the Oireachtas. It would be unusual if he were to vote against a Bill in this House which he had proposed in the Dáil. No, he would not do it. Consistency is obviously the hallmark of the Green Party. Whatever else it has not got, it has that, and we can expect principle to prevail over practice.

It now come to the reason the Bill is topical. A European Commissioner is about to be appointed and it is fascinating to see the speculation on that appointment at. The speculation surrounds people such as Máire Geoghegan-Quinn, Eoin Ryan, to some extent Pat Cox and other people who are part of what is called the Fianna Fáil family. That, I believe, is very unfortunate, and it is an indication of the way Irish politics has worked in the area of public appointments for a very long time that the Government should think only in terms of appointing people of its tribe, or family, to whom it owes loyalty. This is an indictment of the types of appointments that have been made in this particular area for many years. It does not mean that they are not qualified for the job, but that they are not necessarily the best qualified.

One of the most noticeable characteristics in the debate about who is to get this “plum political appointment” is that when it is made, it will be without accountability to anybody about anything. If Máire Geoghegan-Quinn, Pat Cox or whoever gets it, that decision will never have to be ratified by anybody except a Minister and the Cabinet. That is very unfortunate and the Bill seeks to address that issue. It proposes, in effect, that the Minister should have a final say in making the proposals, but let us have the reasons and the criteria set out by an Act of the Oireachtas so we can see that we get the right people, or people at least who are qualified.

[Senator Shane Ross.]

It is necessary that the public as well as Members of this House should see that public appointments are accountable and that people who are given these roles are suitable for those positions. The best way of doing that, I suspect, is in this Bill, which is proposed by Senator Boyle. There would be a questions and answers session with joint committees of the Oireachtas looking at and approving or disapproving of appointments so that not only are political party hacks proposed. I point to a couple of the reasons given by Senator Boyle in the last Dáil. Nobody could have put it better than Senator Boyle when he said: “The prime motivation behind the introduction of the Bill is that public appointments must be seen as being other than a reward for political service, [That is absolutely right and that is the point of the Bill] compensation for those who have been disappointed politically and an exercise of jobs for the boys.” That is what he called, in effect, what is going on at the moment. He called it “jobs for the boys” and said it must not be seen as that. He is absolutely right and that is the purpose of this Bill.

Senator Boyle continued:

If we can make this type of change with this legislation, the other types of necessary political reform, which form part of my party’s programme for Government and which we are prepared to implement with the co-operation of others and put to the electorate for ratification, then this is a process that could help clean up Irish politics once and for all.

One can hear the rhetoric as he said it in the Dáil that day, and no doubt he will repeat that here this evening in his contribution.

His colleague, the Minister, Deputy Eamon Ryan, said: “the system, as applied by the parties opposite is clearly flawed and corrupt, or certainly corruptible.” I would not go that far. I believe he is being over-zealous, somewhat extreme, in this regard. I hope when Senator Boyle comes in he will pull back somewhat from the position adopted by the Minister, Deputy Ryan, and not brand us all with that extreme brush. I do not believe it is necessarily corrupt. He is wrong about that. It can be seen to be corrupt from time to time, and certainly there is too much patronage. The Minister, Deputy Ryan, added that such favours in terms of public appointments were practices that we need to stop. The Minister, Deputy Ryan, went on to say very enthusiastic words about the Bill and similarly derogatory and extremely insulting words about the system as it exists at the moment. I hope we will get the support of the Green Party.

It is not the first time a Bill of this sort has been introduced, I gather, even in this session. I believe Deputy Leo Varadkar of Fine Gael introduced one in the Dáil along similar lines. The principle behind that again was one of transparency to demand that people see that politicians are not nominating what they call their cronies to positions of great influence which also happen to be well paid. At no time is this more topical than at the moment. Every Member of this House will be familiar with the situation with the board of FÁS. That board is a very funny creature. While the appointments were made by the Minister, there were automatic rights to become members of that board available to representatives of the employers and the unions. That has been abolished, but the substitute, which came before us last week, is a system of direct political appointments. If ever a State agency needed political appointments that were subject to the sorts of checks contained in this Bill, FÁS is one. It is not acceptable for FÁS to be a possible outlet for naked political patronage after what has happened there, but that is what will happen without a Bill of this sort.

In the past few weeks I have been investigating the issue of CIE. One of the most staggering things about CIE is that the annual report names the directors, but that is all that happens. There is not a single fact in CIE’s annual report about any of the directors. All it gives is their

names and initials. How in the name of God are we to find out about them? I do not want to name names because I do not want to embarrass any individuals. I suggest that some of them are appointed for blatantly political reasons and no other reason. Most non-executive members of the boards of CIE and Iarnród Éireann have very little knowledge of railways. There are people on the CIE board who have a large knowledge of politics and a particularly close knowledge of Fianna Fáil politics. What is so untransparent is that there is nothing anywhere to tell us anything about them, so there is no accountability at all. As I looked at the names of the members of the CIE board, I rang up various people to find out who they were. Some people knew these guys or girls but did not know they were on the CIE board and were very surprised to hear it. They were slipped onto the board without any great public announcement and without any knowledge whatsoever.

The Bill should be considered because the abuses going on at the moment must be abolished. This is one way for doing so. I will go into the details later on. The need for public scrutiny is vital. The method does not matter all that much. What is proposed by Senator Boyle and me is that the Minister would have the final say. However, there would be an open competition with the positions advertised. Candidates should go before a public service appointments unit and then an Oireachtas joint committee which would either support or not support them. That Oireachtas joint committee should also have certain powers of abolition. It is vital that the principle be established forever that Ministers can no longer use their power of patronage to appoint people who are blatantly only qualified for State bodies because of their political colour.

Senator Joe O'Toole: I compliment Senator Ross on introducing this legislation. The Senator approached me some months ago outlining his concern about this area of work. He put his office working on researching what we might do about it and I did the same. We found a Bill that had been introduced in the other House. We said that we could not really use that legislation because it was a Green Party Bill. We went through it in detail and neither of us could find one word that could be improved in any line of the Bill. I said that we could not really steal it. We would need to give credit where it was due. The Green Party is on the Government side and it is its business to challenge the Government side on issues as they come along.

I checked what then Deputy Boyle said on 27 March 2007 in the other House, which was key to our decision tonight. Speaking about this legislation he said: "The Bill is an attempt to make the process of public appointments more open and transparent". We bought into that. He then said "It is also a challenge to other parties to join the Green Party's initiative on this area of political reform." We also bought into that. We said we could not do better than accept that and with hands across the aisle, do business with the Government party. Let us all move forward together towards an open, transparent Government. I look forward to Senator Boyle and his colleague supporting us in this tonight.

The Dáil debate took place before the general election in 2007. He said "If the election involves merely changing the names and faces of people on the benches opposite, it will be a poor day's work." What can I say? He went on to say: "The Green Party believes changes in the area of political reform are most necessary to reignite public confidence in the political system." This is the reality.

Senator Boyle went on to make a very important point in his speech, which was very appropriate and almost visionary given where we are at the moment. He said:

In the past, appointments to the European Commission, the European Central Bank, the European Bank for Reconstruction and Development and a score of other bodies were referred to as "Government appointments". We argue that those appointed in this regard

[Senator Joe O'Toole.]

are representatives of the State and that there should be a wider process of ratification in respect of them. We suggest that the Government should make its nominations and then put them forward to be ratified by the House.

Hear, hear. Who would argue with that? I would certainly hope that Senator Boyle would come out in support of that tonight, especially given that his name is being mentioned in high places, although that is nothing to do with himself. We have heard it mentioned that the former Minister, Mrs Máire Geoghegan-Quinn might be appointed Commissioner and good luck to her if she is. There is also a view that Senator Boyle might be promoted to the European Court of Auditors in Luxembourg. No better man. No one here would be opposed to that in any way. However, we would like to have the opportunity to debate it.

In the debate on this legislation in the Dáil, his seconder on the night, Deputy Gogarty, who is still in the other House said:

I support the work of my colleague, Deputy Boyle, in putting this Bill together. As the House can see, from the outset the Bill was put forward in his name. It is all pretty much his work. Often Bills are initiated in the names of all of the Teachtaí Dála within the parliamentary party, but it is testament to Deputy Boyle's ownership of this Bill and to his capabilities to work with experts and to use his own nous that it was initiated in his name. I say this because I do not want to take any credit for the drawing up of the Bill.

I am sure I also speak for Senator Ross in saying we would not want to be accused of plagiarism here. This is a case of imitation being the sincerest form of flattery. We absolutely feel this is a tribute to the work Senator Boyle did. It should not be allowed sit collecting dust anywhere and we should move forward in this way.

An interesting thing has happened. Senator Ross gave a very good example of what happened in the case of FÁS. Here is a better example. The Green Party Minister, Deputy Ryan, spent much time in this House painstakingly going through the Broadcasting Bill. When it came to a discussion on appointing the members of the broadcasting authority and the various boards of TG4, RTE and others, we proposed that those appointments should be made on the basis of the provisions in this Bill — the Green Party Bill or Senator Ross's Bill, whichever way one wants to look at it — and that they should come before the Houses of the Oireachtas. The Minister could not concede that point even though he had spoken in favour of it in the Dáil. However, he agreed to have a committee involved in four of the appointments. As a result, for the first time in the history of the State, four members will be appointed to several of these boards by the Joint Committee on Communications, Energy and Natural Resources, of which I am a member. We have begun the process of advertising these positions, as proposed in this Bill, and the process of dealing with applicants will be monitored by the Commission for Public Service Appointments, with input from members of the committee, with the nominees obliged to appear before a public sitting of the joint committee. The purpose of this is not to grill or embarrass them in any way but rather to afford them an opportunity to demonstrate their experience and knowledge in the area relevant to their nomination. Finally, the nominees' names will be put to the Minister for approval. This is a positive development and is in line with what is proposed in this legislation. Unfortunately, however, the Minister, who has five nominations to make, proposes to proceed in the old fashioned way without any consultation on or examination of his nominees.

At a time of general and extraordinary cynicism of the political process, we are saying to people that there is a better way of doing business. We are proposing a means by which ordinary people can connect with the political process and can have confidence that persons

appointed to boards are above and beyond suspicion. I have been appointed to various boards by Ministers and have done my best to discharge my duties in that regard. However, I would have welcomed the opportunity to appear before a committee of the Oireachtas to demonstrate my credentials and justify my appointment. I expect most people would be delighted to show off the expertise that has led to them being nominated to a particular board. I made a point of ensuring that representatives of the two boards on which I currently serve were brought before committees of this House. In one case, there was a grilling by Senator Ross's committee. That is how it should be.

Nobody could disagree with the proposal that the appointments system be opened up so that nominees are afforded an opportunity to present their credentials in terms of background, knowledge and expertise prior to their appointment. Senator Boyle has called for similar transparency in respect of the appointment of the European Commissioner and other high level European Union appointments. There is no reason for Members on the other side of the Chamber to object to that type of transparency. The Government's majority in both Houses will ensure its nominations cannot be overturned. However, these proposals will allow a debate to take place to copperfasten and give credence to those appointments.

I am pleased to second Senator Ross's Bill and to congratulate him on bringing it forward. It is a good day's work. I hope this debate will be conducted in a constructive manner. There is nothing in the Bill that anybody can argue against. Any opposition to it can arise only because the opponent is determined to engage in the wrong type of politics. Let us all work in concert for once. We should do what the Taoiseach has asked us to do many times, namely, work together to find solutions and show a united face to the citizenry. This proposal offers the opportunity for a good night's work for Irish politics.

Senator Ivor Callely: I compliment the Senators on drafting and tabling this Bill. I noted with interest that the mover of the motion put much emphasis on opinions put forth on these issues some time ago by our colleague, Senator Boyle. I have no doubt I could find evidence from the past that Senator Ross has changed his mind on certain issues with the passage of time. The same is probably true of Senator O'Toole. I hope this debate will be considered in the context of the work being undertaken in this area under the revised programme for Government, the recommendations of the task force on the public service and the particular emphasis on finding means by which to improve how business is conducted in the broad arena of public services. There is no doubt the Government is determined to introduce change in this regard.

We are all aware of the general public perception in regard to appointments to public bodies and related matters. I am convinced that perception would be more distinct if there were a clear understanding of all that is involved but I am not sure whether some of what has been said tonight will be helpful in this respect. The manner in which one political party was highlighted, as if every one of its members is guilty of cronyism, is unhelpful. The reference in the Bill to the need to eradicate any element of patronage is not particularly helpful.

Senator John Paul Phelan: Of course we should eradicate patronage.

Senator Ivor Callely: I hope contributors will take a constructive approach. It is important to note that the current arrangement for appointments to public bodies follows the practice of successive Governments and has generally worked well in the past. It should equally be recognised that many well-qualified people of great intellect, possessing unique skills and with no political affiliation have served this country well through their membership of various political bodies. The appointment of members to the boards of public bodies has traditionally been the prerogative of the Minister under whose auspices the particular agency resides and the method for such appointments is set out in the legislation governing that body. The Minister has free-

[Senator Ivor Callely.]

dom to make those appointments but he or she must also take account of any specific legislative requirements and of relevant Government policies. For example, it may be the practice that Ministers consider representations from different strands of society such as the business community, consumers, trade unions and other social partners, depending on the nature of the appointment and the function of the particular body.

My understanding is that when a Minister considers an upcoming vacancy, he or she discusses it with departmental officials and perhaps also with representatives of the body in question to identify what is required. It is similar to building a football team where the manager must decide whether what is most needed is an additional full forward, defender or midfielder and how the new addition can be integrated into the team. I am not sure whether it is overly simplistic to propose a framework whereby nominees must go through various hoops, boxes are ticked and, arising from that, a name is presented to the Minister for approval. That is not my understanding of how it is done or how the process can best be undertaken to meet the needs of public bodies.

I have great admiration for the Taoiseach in his efforts to initiate reform in this area. I understand he is chairing a Cabinet committee which is leading the process of transforming the public service in line with the recommendations of the task force on public service. In that context the Department of Finance is charged with leading the development of models of performance and governance frameworks, including the role and function of boards of State bodies, and that work is already under way. Moreover, the recent revised programme for Government provides for the introduction of a legislative basis for a more open and transparent system for appointment to public bodies. My understanding is that the legislation will outline a procedure for the publication of all vacancies likely to occur, the invitation of applications from the public and the creation from the responses received of a panel of suitable persons for consideration. The Bill will also specify the number of people to be appointed by a Minister and will facilitate the appropriate Oireachtas committee to make nominations to the panel.

We should not lose sight of the fact that when a Minister goes about making an appointment, he has information that may be what I might call “commercially sensitive” and is not appropriate to be out there. This might lead to the question as to why such a person was appointed. We must take this in the context of what I said earlier. There is a board of 15 or 20 people and as the Minister is building a team, it is appropriate that he or she has a certain amount of freedom.

It is also fitting in these changing times that we take account of the situation that prevails, especially as there is a focus on public service and there is a need to change the way we go about our business. We have all witnessed the scrutiny in recent times of public bodies and the erosion of public confidence, mainly due to the manner in which issues have been presented. Many of these issues have been presented in a very intense form, and this may influence public debate and the formalisation of one’s view, but that view might not necessarily be balanced or fully informed. Due to the structure of society in the 21st century, an unfair bias can develop which is not justifiable and which can create a misleading picture. The question is how best to address this and other related issues.

I am not convinced this Bill has the right answers, but I hope it helps discussion. I believe we all want to reach the same target of what would be just, reasonable and sustainable, and what should be supported. There is a need to examine how appointments can best be made in the future, having regard to recent developments and to commitments in the programme for Government.

Senator John Paul Phelan: I welcome the Minister of State back home to the Seanad. I thank Senator Ross for proposing this Bill and Fine Gael will be supporting its second reading in the House. I compliment him and Senator Boyle on their research. I hope Senator Boyle is present in this House when I quote certain remarks made in the other House when a similar Bill was proposed in March 2007. A similar Private Members' Bill was also proposed by Fine Gael quite recently in the other House. The issue of State appointments to public bodies is one of public concern, not least because of the efforts of Senator Ross and others in uncovering some difficulties on State boards over the last few years. For that reason, it is important to have this discussion.

Senator Callely spoke about allowing flexibility for the Minister of the day. This Bill does not remove flexibility from the Minister, but is about proposing a new mechanism of appointments which would allow the Oireachtas to question people who are going forward for State board positions. As Senator O'Toole pointed out, the Government has a majority in both Houses, so the Government is still in a position to appoint people through any Oireachtas State board appointees committee following questioning of candidates by Members. This Bill does not propose to remove all flexibility from the Government.

I do not favour the position that being a supporter of a political party should disbar somebody from membership of a State board. The majority of those who serve on State boards are good, decent, honest people. The majority of them have knowledge about what they do on the boards. However, I cannot help recognising in my seven years in this House that some faces and names just keep on popping up. I know of one individual who stood for the Fianna Fáil Party in at least one election who has been on several State boards in my seven years here, and who is currently the chairman of a board. He has no obvious expertise in that position. The area of patronage is something we should question in this House, even though Senator Callely more or less said that we should not.

All this was brought into stark relief by the former Taoiseach, Deputy Bertie Ahern, who said he appointed his friends to State boards. His friends undoubtedly have some knowledge on particular issues and they certainly knew their way around the place, as he did himself. However, just to appoint somebody because he or she is a friend or because he or she holds certain political beliefs is not sufficient. It is not acceptable in 2009, especially given the juncture in which we find ourselves where people are being forced to make major changes in their lifestyle. We cannot continue the practice as it has been heretofore. That is what this Bill is about.

Senator Boyle has joined us, just as I was about to quote him from a speech he gave in the Dáil in March 2007. He said that:

We have improved the nature and quality of democracy here. There were, however, some major difficulties along the way. The acceptance of democratic procedures that are less than perfect means that a culture under which corruption is practised and, even worse, tolerated can be brought into being.

He went on to state that "It is also a challenge to other parties to join the Green Party's initiative on this area of political reform". He spoke about how we were on the eve of a general election and he called on others to join the party's agenda and initiative on such reform. The Green Party has now been in Government for two years, but its members have not been able to introduce this type of reform.

Senator Boyle was followed by the then Opposition Deputy Eamon Ryan, who went even further in his criticism of the current system, which still exists now that he is in Government. Deputy Ryan spoke about the public cynicism surrounding appointments to State boards and

[Senator John Paul Phelan.]

that the public sees the system as corrupt. It is a system over which he now presides and has done nothing heretofore to reform. Deputy Ryan stated:

The Irish people are not stupid and they see it as it is, that the parties opposite have been so long in power that they have become corrupted by power, and that they appoint friends to bodies on the basis of medieval kings in their fiefdoms granting favours.

I could not put that any better myself, even though he has not acted on it. He went on to point out that when State board appointments came up, there is always one position for the Progressive Democrats and whatever number left for Fianna Fáil. It must now be one for the Green Party and whatever number left for Fianna Fáil. Perhaps Senator Boyle and the current Minister for Communications, Energy and Natural Resources may be able to enlighten me on that issue.

There was a telling exchange of views between the Minister for Finance at the time and the man who is now leader of the Green Party, Deputy Gormley. Deputy Gormley said that the then Deputy Boyle should get an award for the Bill he had proposed.

Senator Shane Ross: Hear, hear.

Senator John Paul Phelan: If we are to believe what we read in the newspapers, his reward is coming soon in Luxembourg. I am sure that he would agree that an appointment to such a position should be subject to scrutiny. I could think of nobody who would be better to fill that position than Senator Boyle, even though I have had my differences with him over the years. However, it does not mean we should not be in a position to question him on it.

Deputy Cuffe stated that:

This Bill is about merit rather than patronage. There are still too many village chieftains in politics. There are too many pork barrel politicians who dispense the spoils of office to those who have helped them along the way.

He went on to state that even when Fianna Fáil was out of government, it was effectively in government because of the amount of people the party had appointed to State boards. Perhaps Senator Boyle will be able to enlighten us on his current thinking on this issue when he gets a chance to contribute.

In his response, can the Minister of State deal briefly with the Employment Appeals Tribunal? He might be able to enlighten me about the criteria for the appointment of people to that tribunal. What experience levels are required for such appointment? I have been informed that one of those appointed is usually a solicitor, although he or she does not require any particular employment law expertise. Are the appointments renewed every three years? What is the term of office of appointees to the tribunal?

I commend Senator Ross on his introduction of this thoughtful Bill. We will support it on Second Stage.

Senator Dan Boyle: I thank Senator Ross and the Independent Members of this House for doing me the honour of resubmitting a Bill I brought before the Dáil when I was a Member of that House. I have to start by saying I agree with everything that is in the Bill. It is what I aspire to see in the area of public appointments. I hope the Bill can be accepted in one form or other by this and the other House. I submitted it in the full knowledge that it would eventually fail. I did not for a second think it would be resubmitted in this form or in these circumstances.

Senator Shane Ross: We have given the Senator a great opportunity. Life is full of such opportunities.

Senator Dan Boyle: The nature of politics dictates that one must respond to developments of this nature.

Senator John Paul Phelan: The wheel has come full circle.

Senator Dan Boyle: Given that I receive e-mails and other correspondence daily telling me about my supposed loss of principle — I am told I have performed a U-turn on everything I have ever believed in and can no longer consider myself a decent human being in any form — it is not new for me to have to respond in this way. As a Member of this House, I have to do it every day.

I would like to outline how the Green Party in government has approached the idea of public appointments. I accept that the system is largely unchanged. Government action tends to be taken on the basis of the respective strengths of the majority and minority partners. We are in a better position to offer public positions in those Departments where there are Green Party Ministers. The Green Party uses an internal process, involving a committee with external membership, when it is asked to fill positions on State boards. Members of the Green Party, non-governmental organisations and the public have responded to a letter I sent out as party chairman a number of years ago in which I asked people to submit their CVs for consideration when appointments are being made to boards. A number of people whose political backgrounds have nothing to do with the Green Party were appointed through that process. A number of significant Labour Party supporters have been appointed to State bodies on the recommendation of Green Party Ministers.

Senator John Paul Phelan: The Green Party is poaching Labour Party members.

Senator Dan Boyle: I would like to think that represents the beginning of a change. A further step forward is being taken using the Broadcasting Act 2009 which will enact the proposals of the Minister, Deputy Ryan, with regard to the Broadcasting Authority of Ireland. That legislation gives Oireachtas committees a greater role in vetting people and eventually appointing them to boards.

The latest advance, as agreed in the review of the programme for Government, is the proposal to provide for a legislative basis for public appointments. As someone who was involved in those negotiations, I have to accept that the approach being taken does not come close to what I set out as a preferred or ideal situation in the Bill I tabled in the Dáil in 2007. However, it will be the first time legislation on public appointments will be introduced by the Government and brought before the Oireachtas. The legislation will establish panels, put together in an independent fashion, from which Ministers will have to select at least half the members of the boards they are required to appoint. I suggest that the Broadcasting Act innovations introduced since the Green Party went into government, when taken with the commitments that were secured in the recent review of the programme for Government, demonstrates a small, slow and painful movement towards a legislative basis for some degree of autonomy in public appointments. I emphasise that I continue to prefer the model outlined in this Bill, which can and should be advanced. It may be possible to advance it in the lifetime of this Government, but it cannot be advanced tonight. I repeat my gratitude to those who brought it before the House tonight. We will need to adopt the important principles enshrined in the Bill at some stage in our public life. At a time when public cynicism about the profession of politics is at its height and the need to restore confidence in politics has never been so great, such principles have never been more needed.

[Senator Dan Boyle.]

I am sure Senator Ross, his Independent colleagues and the other Members of the House are aware that we are participating in government on the basis of the programme for Government that was originally secured in 2007 and was recently reviewed. That is the basis on which the Government in which the Green Party is participating will advance the issue of public appointments. If it is possible to push harder and further in this regard, I will be grateful for the assistance of any Member of the Oireachtas in achieving that. I emphasise that we are making more progress down that road than any other Government has chosen to make. I have heard the contributions of other Senators, who wagged their fingers and said “tut-tut” in the past when they were confronted with the undoubted abuse of public appointments by those who have been in government longest in this country. I remind the House that such abuse was carried forward with equal vigour by other parties when they subsequently found themselves in government. Senators may nod—

Senator Alex White: I was shaking my head in disagreement.

Senator Dan Boyle: —in a vulgarian fashion and deny that their parties were involved—

Senator Ann Ormonde: They think it is only us, and not them, who do this.

Senator Dan Boyle: —but the reality is that when appointments have been made at local government level or to international bodies—

Senator John Paul Phelan: There has been a huge spiralling of so many boards.

Senator Dan Boyle: —the use and abuse of public appointments has taken place in equal measure regardless of which party has held the reins of power.

Senator John Paul Phelan: That is absolute nonsense.

Senator Dan Boyle: The Senator can deny it all he likes.

Senator Liam Twomey: Why does the Senator not stop it?

Senator Dan Boyle: His denial only serves to intensify the use of the practice in the past.

Senator Liam Twomey: That is wrong.

Senator Dan Boyle: By organising this debate, Senator Ross and his Independent colleagues have given me the honour of regurgitating my principles and beliefs in this regard. They have demonstrated the importance of this Chamber by airing this issue and ensuring there continues to be a focus on it. While the decision-making process in this respect may be slow, gradual and painful, when decisions are ultimately made they will advance further the principles I was honoured to articulate in 2007. I continue to believe in those principles and hope they will be put on the Statute Book at some future stage.

Senator John Paul Phelan: Will the Senator advance those principles from Luxembourg?

Senator Alex White: I would like to share time with Senator Bacik.

An Cathaoirleach: Is that agreed? Agreed?

Senator Alex White: As I listened to Senator Boyle, it occurred to me that greater love for, or adherence to, a Government hath no man than to vote against a Bill he authored. That is

the position the Senator finds himself in this evening. I have previously heard him try to spread the blame for this problem by saying that everybody has engaged in these practices since time immemorial. While I do not accept that is true, for the sake of argument I will accept for the moment that abuses of this nature have been perpetrated by parties other than the Fianna Fáil Party. Even if that were the case, Senator Boyle must admit he is in a position to address it. He has told us this evening, in a roundabout sort of way, that he cannot get the Fianna Fáil Party to agree to support the Bill proposed by Senator Ross. That is manifest. Senator Boyle has just told us that he continues to agree with the contents of the legislation, but cannot persuade his colleagues to agree to it. That is precisely what has occurred. The Senator has pointed to the marginal references to this issue in the programme for Government, but unfortunately that does not meet the point he made when he correctly advocated this legislation some years ago. Senator Ross and others have quoted liberally from what Senator Boyle said on that occasion.

I agree with and welcome this Bill. I congratulate Senator Ross on pursuing this important initiative. He is right when he says there needs to be far greater accountability at the heart of our system. I distinguish to some extent between accountability and transparency. We certainly need much more of the former. It would probably be more difficult for us to achieve accountability although we should strive for it, but transparency can be achieved much more quickly and very easily. Even if there is no measure requiring an appointee to a public body to account for himself to an Oireachtas committee, although this should be an objective, there should at least be some transparency so as to find out who are the candidates. We should find out their qualifications and the basis on which they are appointed to any given public body.

I agree with Senator John Paul Phelan in that I do not believe political participation or involvement in a political party, irrespective of which party, should operate as a bar to selfless and honourable service on a public body in the public interest. It clearly does not do so. The problem, suspicion and, in many cases, the reality is that people are appointed to public bodies not because of their merit, which may exist, but because of their political connections. That is the difficulty that arises. If Members on the opposite side of the House believe this is more a perception than a reality, they are incorrect because there are so many examples of patronage in public appointments. I have witnessed many cases personally, as have colleagues.

Even if patronage were more a perception than a reality, why could we not achieve the transparency the Bill seeks? If the Members opposite believe it is all exaggerated – Senator Callely is upset about people talking about patronage and believes there is none, apparently – we should ascertain whether they are correct. Let us have basic transparency of the kind advocated by Senator Ross and others. They advocated that individuals should appear before responsible committees of the Oireachtas to answer questions. What is wrong with a question-and-answer session? While the committee would not make the appointment, it would serve as a public forum allowing us to see who the candidates are and determine their views, merit, background and thinking on the issues germane to the appointment to be made. That can do no harm whatever and can only open public debate and do a service to the public.

In the legal profession and across the system, one hears certain phrases all the time. Members can say or pretend in the House that patronage does not occur but we know how the spoils of war are divided in this country. By “spoils of war”, I mean the spoils of political war. People get appointed to bodies because of their political background and Senator Phelan should note that people get appointed to the Employment Appeals Tribunal because of their political connections. This is absolutely the case and the dogs on the street know it. I am not saying people of merit do not get appointed to the tribunal. I practised before the tribunal. People of very considerable merit get appointed to it but one must ask whether they are being appointed

[Senator Alex White.]

because of their merit or their political background. We need a system whereby this can be addressed and in which there is public confidence.

Implementing such a system does not mean people will be excluded because they have particular politics. People are entitled to have politics and should not be excluded because of having a trade union background. Reference was made to trade union fat cats and employer fat cats in the debate on FÁS and it was implied they should not be appointed to boards. I found much of this argumentation to be quite excessive and, in many cases, not justified by the reality that many appointees, including trade union representatives, with whom I am familiar, and employer representatives are very fine, honourable people who have performed extremely well on public bodies. However, the honourable ones among them – I would say they are all honourable – would and should welcome an opportunity to have a public forum at which they could be questioned by Members of the Oireachtas on their involvement and expertise in the area in question, and their views on major topical political issues germane to the body to which they are appointed.

It is time this sort of legislation were introduced. There is a need to eradicate any element of patronage, as implied in the explanatory memorandum to the Bill. This is absolutely true and I do not know why any Senator should be so upset by this being at the heart of the legislation. I am glad Senator Boyle still aspires to introducing such legislation and it is a pity he cannot, on this occasion, persuade his colleagues in Fianna Fáil to agree.

Senator Ivana Bacik: I am grateful to Senator Alex White for sharing time. I, too, commend the university Senators, particularly Senator Ross, on introducing this excellent Bill. Others have commented on its genesis and the fact that it is so closely reflective of the Appointments to Public Bodies Bill 2007 introduced by Senator Boyle and his colleagues in the Green Party, who were in opposition at the time. That Bill was defeated on Second Stage on 28 March 2007. It is a shame the Green Party cannot support this Bill, particularly because there is in the renewed programme for Government, agreed on 10 October, a commitment to introduce on a legislative basis a more open and transparent system for appointments to public bodies. Having listened to Senator Boyle, I would have believed he would be in favour of this legislation considering it is similar to his own Bill. I understand the Green Party and its colleagues in Government will not be supporting it.

The Bill is long overdue and there is no question about that. All Members on both sides are agreed on that. The reality of cronyism and patronage and the fact that they are rife in public life and in the making of appointments to public bodies are accepted. Senator Alex White referred to particular examples. We are all aware of patronage.

In 2005 I was on a body called the Democracy Commission, which I hasten to add was not a public body in that its members were not appointed by a Minister. Its members included Senator Hanafin, from the other side of the House. The body was set up by TASC and it considered ways in which we could improve democracy and make a case for democratic renewal in Ireland. Key to our recommendations was one that there be greater scrutiny of appointments to public bodies. We argued:

The Standards in Public Office Commission should be given powers to draft guidelines for appointments to the boards of non departmental public bodies... This process should be subject to the scrutiny of the Oireachtas. Similarly the appointment of the chair of each commercial state body and of the larger non-commercial bodies should be subject to ratification by the Seanad or relevant Oireachtas committee.

Central to that recommendation was our great concern over the proliferation of non-departmental public bodies. We stated in 2005 that the number of such bodies at national level was approximately 500, with a further 400 operating at regional and local levels. Up to half of those had come into existence in the preceding ten years. There is clearly an issue associated with the lack of transparency in the appointment to those bodies. Ministers are currently responsible for appointing the majority of members to the boards of the bodies and, at present, there is no clearly defined mechanism to ensure appointments are free from undue political or other influences. It may not be a question of political party affiliation. It may simply be a question of friendship or offering a reward for favours done. I do not mean this necessarily in a corrupt way but refer to appointing someone as a way of thanking them. This is not the way in which appointments to public bodies should be made.

The message in this Bill is that we need democratic scrutiny and oversight of the process of appointments to public bodies. It was recognised by the Green Party Members in their speeches in March 2007. The current Minister for the Environment, Heritage and Local Government, Deputy Gormley, referred to the Democracy Commission's recommendations at that time and called for reform. He stated other parties should support his Bill. I renew that call and say to Fianna Fáil and the Green Party that they should be supporting it. We all agree it is necessary and we can all sign up to it. It is a bit like motherhood and apple pie; it is very hard to see how one could vote against a Bill that calls for the scrutiny of appointments to approximately 900 public bodies. The legislation is long overdue and is really worthy of cross-party support.

Minister of State at the Department of Finance (Deputy Martin Mansergh): I am pleased to have the opportunity to take part in this debate on appointments to public bodies and to hear the view of Senators. Oireachtas Members who go to the trouble of preparing Private Members' legislation are always to be commended. Even when, as is more often the case, the Bill is not accepted as it stands, it can help to inform subsequent Government legislation.

It is a little over six months since I took part in another debate in this House on the ongoing review of State agencies that is being carried out by the Government. That debate took place in the wake of one budget, and this one takes place as we prepare for another. Much has changed in the meantime. The McCarthy report has been published and, for a variety of reasons, both good and bad, State agencies find themselves the subject of much public debate and controversy. Just last month I spoke in the Dáil debate on a Fine Gael Private Members' Bill on public appointments that did not proceed further.

When we discussed State agencies in the House last April I challenged the negative caricature of them. The reform of State agencies is necessary but we should also recognise the important contribution those agencies have made to the country and our national life and acknowledge the hard and valuable work of those who have served on them. The State has benefited from extremely capable and well-qualified individuals who have given of their time, experience and expertise to serve on the boards of public bodies, some of which are shining examples. We can be proud of their historic achievements.

Appointments to State boards, task forces and international organisations are normally made by the Minister in the relevant sector or by the Government in the case of certain appointments to international bodies. In making appointments, Ministers seek to ensure the people appointed bring a diverse range of relevant skills and experiences to the body. The decisions are approached in a conscientious manner, following consultation, and usually take time. The ministerial freedom to make appointments is not unfettered. The arrangements for these appointments are usually prescribed in the relevant sectoral legislation. Ministers must take account of any specific requirements that exist, such as the need to appoint worker directors or representatives of nominating bodies, and of relevant Government policies, such as the policy on

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gender balance on State boards. Where appropriate, Ministers also consider representations from different strands of society such as the business community, consumers, trade unions or other stakeholders depending on the nature of the agency. Ministers can be questioned and held accountable to the Houses of the Oireachtas for their appointments.

I oppose the Bill on the basis that the solution it proposes is not in line with what is needed to carry forward the process of reform the Government has begun in the manner of making public appointments to the boards of State bodies. I am also concerned the Bill advances into a new area, namely, appointments to international organisations.

The Government's policy on appointments to public bodies is clearly set out in the renewed programme for Government which provides for the introduction on a legislative basis of a more open and transparent system for appointments. Legislation will outline a procedure for the publication of all vacancies likely to occur, for the invitation of applications from the public and for the creation from the responses received of a panel of suitable persons for consideration for appointment. The legislation will also specify the number of persons to be appointed by a Minister and will facilitate the appropriate Oireachtas committees to make nominations to the panel.

Already individual Ministers have sponsored changes in their sectoral areas of responsibility. In this regard, the House will be aware of the innovative measures for board appointments to public broadcasting corporations which were sponsored by the Minister for Communications, Energy and Natural Resources, Deputy Ryan, in the recently enacted Broadcasting Act.

While opposing this Bill in its particular form, I acknowledge that it recognises the potential of the State's existing recruitment services to play a professional and impartial role in handling nominations or recruitment to public bodies, although the role proposed in the Bill for the Commission on Public Service Appointments would probably be more appropriate for the Public Appointments Service, PAS. I note that the services of the PAS have been called into play by the Oireachtas Joint Committee on Communications, Energy and Natural Resources in soliciting expressions of interest from those who would wish to be nominated by the committee to the positions to which the provisions in the Broadcasting Act apply.

Under those new provisions, the joint committee will recommend four of the candidates for the nine member board of the new Broadcasting Authority of Ireland, BAI, and four of the 12 members of the board of RTE. Senators will recall that under the new arrangements the Minister for Communications, Energy and Natural Resources will inform the Oireachtas joint committee of proposed appointments to the boards, setting out the relevant experience and expertise of his other nominees. The Oireachtas joint committee will have 90 days to propose candidates for the relevant post or posts from the four posts covered by the new provisions, and will advise the Minister of its recommendations giving reasons such as relevant experience and expertise. The Minister shall have regard to the advice of the joint committee in making the appointments, that is to say, he or she may accept the recommendations as he or she sees fit or decide to nominate others.

In the course of the debate on amendments to the new provisions in the Broadcasting Act on board appointments, the Minister, Deputy Ryan, made clear his view that it was for the committee to propose its nominations to the Minister rather than the Minister's nominees requiring to be approved by the committee. That was the intention in the legislation as passed. It is for the Government, as Executive, to manage and take decisions within the statutory framework laid down by the Oireachtas and to answer for those decisions and actions. In present times, we need a strong, not a weak Executive, and its powers in regard to appointments should not be transferred virtually wholesale to the Legislature.

In contemplating the task before it under the new provisions of the Broadcasting Act, the Oireachtas joint committee saw merit in availing of the executive services of the Public Appointments Service — an independent and professional service — in assembling a pool of qualified candidates that could be considered for nomination by the committee to the positions on the boards of RTE and the BAI covered by the new provisions. I noted the advertisement in last Friday's newspapers in which the Public Appointments Service is seeking expressions of interest from suitable candidates on behalf of the Oireachtas joint committee. It is not expected that the Oireachtas joint committee will be in a position to make its recommendations in regard to the broadcasting authority and RTE boards for some months. However, we need to see how this system works in practice and the House also needs to form its view of it before we rush into another model which is also untested.

Turning to the provisions of the Bill, I see difficulties in a number of areas. First, the Bill establishes yet another Oireachtas committee at a time when we are trying to curtail the costs of administration. There are ample Oireachtas committees already in place in the various sectors to oversee any role that may be accorded to the Oireachtas in a reform of the system of public appointments.

The role envisaged for this committee would be truly enormous. Its remit would extend not just to State agencies as widely understood, but to all executive bodies, advisory bodies and task forces under the remit of a Department. Under section 10 the committee would be tasked with carrying out a review of all the procedures in place for the appointment of chairpersons and board members of the wide range of bodies that are in existence. That would involve a detailed examination of the arrangements for appointments to boards set out in a myriad of sectoral legislation and the identification of the arrangements for various appointments to international bodies. The committee would then have to establish the list of vacancies that would fall under the new arrangements proposed in the Bill.

It strikes me that this approach places an enormous administrative burden on the Oireachtas that is far more appropriate to Ministers and their Departments. It would be an unnecessary burden for the Oireachtas and would not be germane to Oireachtas scrutiny as elaborated in recent years. We can achieve transparency in public appointments without overturning the relationship between the Oireachtas and the Government.

In section 12, the role envisaged for the committee in approving plans for appointments to public bodies is, again, a matter for Government, not the Oireachtas. Another feature of the Bill that concerns me is the conflicting roles assigned to Ministers and the joint committee. Section 5 clearly states that the Minister shall remain ultimately responsible and accountable for appointments to public bodies. Under section 13(5), however, the appointment of the chair and board composition would be subject to ratification by the joint committee, which would also have the ultimate power under section 18 to dismiss a chairperson or board member upon recommendation of the relevant Minister. The ultimate powers and responsibilities of these sections appear to be in conflict.

Section 19 requires public appointments to international bodies currently at the discretion of the Government to be subject to a vote of approval by the Dáil. In general, however, the procedure for making such appointments is unique to the individual post and is not amenable to a standardised approach or scrutiny. The Government or ministerial nominee may have to be agreed within a nominating college or constituency or with the body in question or may be circumscribed by requirements for particular qualifications, experience or links to or standing with the national Government or Administration. It is neither appropriate nor in the best interests of making effective appointments to adopt this procedure.

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In another departure at section 15, the Bill provides that the appointments process shall be subject to audit by the Oireachtas committee. That provision, in addition to placing a further burden on the Oireachtas, ignores the role of the Comptroller and Auditor General as the independent constitutional officer who audits on behalf of the State and who carries out special reports on the economy and efficiency with which State bodies acquire, use and dispose of resources, and on the systems, procedures and practices they employ for evaluation of the effectiveness of their operations. It appears also to be predicated on the assumption that the Executive cannot be trusted, even if an impartial selection system under the Public Appointments Service were established.

The Bill takes no account of the normal provisions for accountability that can apply under law to the chief executives and chairpersons of various public bodies. The formula for their accountability is usually based on the original provisions for the accountability of Accounting Officers of Departments to the Oireachtas as set out in section 19 of the Comptroller and Auditor General (Amendment) Act 1993. That is a well-tested formula.

The Bill also does not acknowledge the arrangement for corporate governance in the recently updated code of practice for the governance of State bodies. This provides a framework for the application of best practice in corporate governance by both commercial and non-commercial State bodies. All State bodies and their subsidiaries are required to confirm to the relevant Minister that they comply with the up-to-date requirements of the code. The code of practice concerns both the internal practices of the bodies and their external relations with the Government, the relevant Minister under whose aegis they fall, the Minister for Finance, and their respective Departments. The code also refers to the ethical and standards in public office obligations that apply to all designated directors and designated office holders.

The code of practice provides, *inter alia*, that the chairperson must include a statement that all appropriate procedures have been followed by the organisation, including those regarding Government pay policy and procedures for financial reporting, internal audit, travel, procurement and asset disposal. The chairperson must furnish a statement on the system of financial control in the body in a prescribed format to the relevant Minister and Department. Some of the recent publicity regarding certain public bodies would seem to indicate a lack of awareness of these requirements in the past.

Turning to performance matters, irrespective of the manner of appointment of its members, the board ultimately reports to the relevant Minister and to his or her Department. This is an issue that was examined by the OECD as part of its review of the Irish public service, which was published last year. The OECD review, *Towards an Integrated Public Service*, was a whole of public service review. What the Government wanted the OECD to do was to examine how its priorities and decisions are translated into services and outcomes for our citizens and how these processes can be improved. The review was not an external audit by the OECD. Instead, the Government initiated the process. This innovative approach was new not only for Ireland but for the OECD which is now moving to replicate this whole of public service approach in other countries. It puts Ireland at the forefront of public service modernisation and creates a model that is being copied elsewhere.

The OECD found that agencies had given the Irish public service additional capacity and flexibility to deliver services during a time of major growth in public spending and increased citizen expectations. Agencies had allowed Governments to involve more stakeholders in participative management and to bring needed skills into the public service. However, the OECD believed that, when compared internationally, agencification in Ireland may have set out to achieve too much.

Senator Alex White: On a point of order, surely there is no such word as “agencification” in the English language.

Senator Rónán Mullen: There is now.

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

Deputy Martin Mansergh: The OECD said that there is now a need for an improved governance and performance dialogue to address what it described as the current disconnects between the central Civil Service and the broader public sector, especially between Departments and agencies. It noted that there are neither formal nor informal criteria for establishing agencies in Ireland, either at the national or local level. It recommended that the opportunity should now be taken to rethink the agency system to take better advantage of this organisational form.

The OECD’s call for improved governance arrangements for the public service is one the Government supports. There is a need to take a hard look at our approach to agencies, why and how they are set up, and the proper reporting relationships between agencies and their parent Departments. This is clearly an area that is central to the next phase of public service modernisation. In this regard it is not merely the manner of appointments that matters but the quality of the framework in place for governance and reporting.

The Government responded to the OECD review by establishing a task force to prepare a comprehensive framework for renewal of the public service. In relation to agencies, the task force was asked to recommend an appropriate framework for their establishment, operation and governance. The report of the task force on the public service, *Transforming Public Services*, was published last November. The report builds on the findings of the OECD review while at the same time taking account of our new economic circumstances. The report set out a framework which Government has adopted for what amounts to a radical transformation of the public service. The measures set out in the report represent a challenging agenda for change in the public service. A Cabinet committee chaired by the Taoiseach is leading the process, supported by a steering group of relevant Secretaries General.

The task force also recognised that the formation of agencies has been a significant feature of the public service in recent times and that they have played an important role in contributing to policy making in regulation and service delivery. Agencies have given the public service additional capacity and flexibility to deliver services during a time of major growth in public expenditure and increased citizen expectations. It also recognised that they have allowed a clear dedicated focus on delivering a particular function, which might not be possible in a multi-functional Department.

The task force argued that it is necessary to have clarity around statutory mandates and the delivery expectations of Government. In addition, regular evaluation is necessary to allow decisions to cease activities. It said there should be fewer new agencies and fewer agencies overall, as new functions are increasingly assigned to existing agencies or retained within Departments. It endorsed the OECD view that a wider variety of governance arrangements would be appropriate for the diverse range of agency roles, with scope in particular for reducing the number of statutorily independent boards of stakeholders in favour of more immediate ministerial direction with greater recourse to advisory boards.

In parallel with the work of the task force, the Government announced a process for the rationalisation of State agencies. In last October’s budget, the Minister for Finance announced the Government’s decision to proceed with a series of 30 rationalisation proposals that will reduce the number of bodies by 41 and streamline functions in three areas. The general policy approach on rationalisation of State agencies is to create efficiencies through streamlining the

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delivery of public services, removing duplication of functions and promoting departmental and ministerial responsibility.

The publication of the task force report was accompanied by a major Government statement on transforming public services. Building on the recommendations of the task force, the Government statement announced the establishment of the special group on public service numbers and expenditure programmes — the McCarthy group — which would, *inter alia*, report to the Government on the scope for further rationalisation of agencies. It also announced that the Government would not create any new agencies pending the development of new performance management and governance frameworks. Ministers will be required to demonstrate a clear business case for any incremental resources associated with the creation of a new agency or the conferring of new functions on an existing agency, in particular, why an existing agency or Department cannot take on the task within existing resources. All agencies will be required to publish output statements relating to the resources allocated to them with target achievements, and Departments will put in place, with those agencies involved in service provision, service level agreements which commit agencies to delivering agreed volumes and standards to the public. Agencies will be compelled to use shared services options save in exceptional circumstances.

This Bill seeks to improve the arrangements for making appointments to public bodies. I welcome that but the mechanisms proposed are complicated and burdensome. The Bill is also predicated on the assumption that the Executive is not capable of managing the processes surrounding appointments in a proper way. I reject that. Neither does it recognise the reforms that are already under way. The Government has set out clearly how it intends to address this issue in the renewed programme for Government. Nevertheless, contributions from Senators today will be taken into account as new arrangements are framed for a robust and transparent system of appointments.

I would like to respond briefly to one or two points made in the debate. The impression is often given that important appointments are only given to members of governing parties. I point out that the very distinguished EU ambassador in Washington, who is retiring from that post, had the support of the Government in his nomination. The chairman of the Irish Human Rights Commission was a former Opposition Leader of the House. A former leader of Fine Gael, Alan Dukes, has been given several appointments, including in recent times. Our European Commissioners have generally obtained substantial portfolios and their achievements have been regarded as considerable. With regard to people of a political affiliation, a former Cathaoirleach of this House made an excellent board member of CIE and was reappointed, if I remember correctly, by a Fine Gael Minister to that board. I recommend an article in today's *Evening Herald* about the progress made by CIE in direct response to a point made by Senator Ross.

Much play has been made in the debate of quoting what a Green Party Senator, formerly a Deputy, said on the subject but any Member in Opposition, on coming into government, is in a position to refine his or her policy and, moreover, to get it transformed into action. I am sure the Opposition, if it were to go into government, would act in exactly the same way. Senator John Paul Phelan was critical of the current system but failed to say what Fine Gael in government would do in this area. When the Labour Party was in government in the 1990s, I remember it being quite openly stated that public relations contracts should be awarded to like-minded people.

I have been lobbied, as I am sure have most Ministers and Ministers of State. There are very few appointments — in fact, none of which I am aware — that I must make to bodies, but none the less I have been lobbied. I am unsympathetic to lobbying by persons whose only

qualification is party affiliation, but if that is combined with a track record and a great deal of experience, then that is an entirely different situation, and I entirely agree with everything Senator Alex White had to say on that subject.

We face failures in governance in both the public sector and private sector. This seems to be an ongoing problem, which is one that goes back many years, to do with the state of knowledge of non-executive board members and what the executive members choose to tell them, and this requires a great deal of reflection across the entire economy and society. It is not confined to the public sector.

Senator Rónán Mullen: Le cead ón Tí, ba bhreá liom mo chuid ama a roinnt le mo comhleacaí, an Seanadóir Ó Dochartaigh.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Rónán Mullen: I was struck by the thought that we should have a *habeas corpus* here and summon the unfortunate civil servant who gave us the word “agencification”. I am not sure if we should give the poor individual a dressing down or a week’s holidays.

Deputy Martin Mansergh: I nearly changed it.

Senator Rónán Mullen: He is clearly so overworked that he failed to put in inverted commas, at least, to ease our passage through the speech.

In welcoming the Minister of State, Deputy Mansergh, to the House, it is not controversial to state that the patronage and the abuse of appointment to public office has on occasions been the curse of our political system. I commend Senator Ross on bringing forward the Bill. As he stated, he did not draft it but he is absolutely correct in bringing it forward for consideration by the House today.

Before dealing with the substantive areas of the Bill, I want to cast an eye over the nature of the bodies addressed in the Bill. In any democracy elements of government are delegated to panels of experts to allow close scrutiny of the matters in question by people who are able and interested but not weighed down with the demands of office of state. However, since the early days of this State the cynical among us have been able to predict that these appointments would be made on occasion for venal rather than altruistic reasons, and too often people have been proven correct.

I was going out the door of my office when I heard Senator White, I think, — I am open to correction — generously acknowledge or at least assume for the sake of argument that it was not just a Fianna Fáil problem. It was not only generous but wise of him to do so because there is no political party that has been above making rather grubby appointments on occasion.

I recall the famous Battle of Baltinglass. I was surprised the Minister did not mention this *cause célèbre* back in 1950, a dispute caused by the action of the then Labour Party TD for Wicklow who had become Minister for Post and Telegraphs in the inter-party Government. Ignoring the rights of the incumbent family, the Cookes, as the House will be aware, he appointed one of his own supporters, Michael Farrell, as postmaster of the sub-post office in the village of Baltinglass, and the family protested.

There is an interesting parallel with what we are discussing. The family protested and many politicians were appalled by such marked jobbery, but after Labour’s coalition partners, Clann na Poblachta, whose election plans had included opposition to corruption, failed to demand justice from the Minister, it was the people of Baltinglass who took up the cudgels in the battle. They arranged to boycott the general store that Farrell also owned in the village and, in the

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following year, Farrell resigned his position as postmaster. Indeed, there was an anonymous contemporary ballad describing the battle that went as follows:

There were bremagums and stem-guns and whippet tanks galore,

As the battle raged up and down from pub to gen'ral store.

As I stated, it seems there is no party in this State above criticism on this issue.

The modern example of appointing members to boards, including semi-State companies and prison visiting committees, whose members are often resident many miles from the meeting place of these committees, has resulted in considerable travel expenses in addition to the stipend payable. Of course, this considerable financial cost to the public purse has compounded the damage done to the public good by keeping good persons off these boards in favour of, on occasions, less able but better connected persons.

Of course, I am speaking not about every appointment but about the general malaise. Obviously, we must consider the good work done by many post holders who have been sincere in their dedication and faithful to their task.

The Bill is impressive. On the central tenet of the Bill, that there would be scrutiny or that decisions on the appointments made would be taken away from the Executive, at least to a partial extent, some years ago we were faced with controversy that led to the creation of the Judicial Appointments Advisory Board, JAAB, a development that was intended to remove the problem of political considerations impinging on appointments to the Bench. While the creation of the JAAB was well-meaning, it is fair to say that many consider that the political element remains to an undesirable degree. This Bill in a sense addresses this by making the power of appointment lie with an Oireachtas joint committee rather than having an independent body make a non-binding recommendation to Cabinet, as is the case with the Judicial Appointments Advisory Board, although as I stated, I note the provisions on the Minister's ultimate responsibility.

I welcome in particular the provisions set out in section 13 and the focus in section 12 on the appointment plans. I would have liked to voice a caution about accountability. The FÁS scandal has shown the propensity of Government to wash its hands of anything that can safely be blamed on the board of an autonomous organisation. It might be appropriate to amend section 5 to give some mechanism to the Minister's ultimate responsibility by creating a practical element, perhaps borrowed from corporate governance theory, that the chairs of these committees would be specifically required to report to the relevant Minister on the functioning of the board. Gabhaim leithscéal le mo comhleacaí. Gabhaim buíochas as ucht an deis labhartha.

Senator Pearse Doherty: Gabhaim buíochas le an Seanadóir Mullen as ucht a am a roinnt liom. Cuirim fáilte roimh an Bille seo, An Bille um Cheapacháin chuig Comhlachtaí Poiblí agus sílim go bhfuil sé thar am go mbeadh reachtaíocht san áit seo. Caithfidh mé a rá gur cleas glic atá imrithe anseo, ag an Seanadóir Ross go h-áirithe, an Bille deireanach a chuir an Comhaontas Glas ós comhair na Dála a fhoilsíú anseo inniu. Déanaim comhgairdeas leis as ucht sin. It is a clever stunt by Senator Ross in producing the same Bill that was produced by Senator Boyle and the Green Party in 2007, and presenting it here today. It is long overdue.

Senator Boyle, in his acknowledgement, has correctly recognised that little has changed in the system since 2007. It was only this month last year when the leader of his party, the Minister, Deputy Gormley, had to face the Dáil and make a public statement of apology because he appointed two councillors to a State body, the Private Residential Tenancies Board. One of

them, from my county of Donegal, was a Fianna Fáil councillor who came back to that party's family and who was originally in Independent Fianna Fáil. The other was a Green Party councillor who was a county councillor at the time and who is now a town councillor. Indeed, he is now leaving the town council and leaving his position as an elected representative of the Green Party because he cannot afford to represent the people anymore, but that is a side issue. The reality is that this system has continued even up until last year and there is a need for an overhaul of this system.

Fianna Fáil has been the dominant party of Government for many decades. We have a system of cronyism and corruption being bred particularly from that party, although it is not unique to it. A summary of the detailed and lengthy contribution from the Minister of State would be that they are not ready for this legislation, they have a commitment in the programme for Government and they will deal with it some time in the future. That is not good enough because this is ongoing. For many years there has been a demand that this system be dealt with. It seems that the agenda of the Government time and again is that it is continually stuck in the slow lane and sometimes stuck in reverse. It is time for it to catch up.

The public wants more accountability. It wants greater confidence in some of these State boards. Other Senators have spoken about the lack of confidence in boards such as those of CIE and FÁS because of the scandals that have occurred within them. It is very easy to blame the board but the reality is that the Minister responsible has not grabbed the bull by the horns on those occasions. If there was at least a public system of appointing members to these public bodies, there would be more acceptance that those on the boards are trying to do their best. At this time, getting appointed to these boards is clearly a case who you are and who you know.

I welcome the Bill. I hope the Green Party Members, if they cannot support the Bill, can do what they have done on other occasions and stay out of the Chamber and not cast their vote, thereby allowing us to pass the legislation on this occasion.

The system is based on the fact that Fianna Fáil want to hold on to power at all costs. It has continued to put its people onto boards to ensure that, even outside of Government, it will continue to direct and control the boards. There will be three by-elections for the Seanad. These would be a good example of how Fianna Fáil, as the dominant party in Government, could show its genuineness by appointing somebody different from a party member or a Green Party member to one of those vacancies. It should particularly consider the issue of an emigrant representative being appointed to the Seanad who would give a voice to the emigrant communities throughout Britain, America and Europe. This would at least show there is a change of attitude at the heart of Government in regard to this issue.

Senator Larry Butler: I wish to share time with Senator Ormonde.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Larry Butler: We have had an extremely good debate on appointments, which I welcome. Having served on a health board for many years, I met many people with ability on that board who came from the different political parties and from none. I am not one of those who believes, when a board is being appointed, that one needs to be a member of the Labour Party, Sinn Féin or any other party to be appointed. The one issue for me is whether the person has the ability to serve. One should not be debarred by association.

If a person wants to serve on a board of a public body, that person is giving his or her time, experience and ability to do so. While such people receive a stipend, it would not in many cases pay them for attendance. To take a councillor who must leave his farm to sit on a board or attend a committee in one of the prisons, he must get somebody to look after his work while

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he is away. People who are prepared to give of their time and ability to serve on boards and who are well equipped to do so should not be prevented from doing so.

Of course, Fianna Fáil has been in power more than most and, therefore, many people have an association with Fianna Fáil. That should not debar them, however. The same applies to the Labour Party and Fine Gael. Regardless of who one was, all parties were represented on the health boards, including Sinn Féin, the chemists and various others, but they were all relevant people. That is the important point — to have a relevant, coherent board that serves the public well.

During this debate, many speakers have, wrongly, dismissed the service that has been given to this country by many good, decent, genuine people. It was said that the system in place is corrupt. I do not believe it is corrupt. I have not seen any corruption on any board on which I served.

To be fair to Senator Ross, he has given this House great service in exposing what happened on one particular board. I believe the board in that case was totally wrong and certainly did not carry out its duties by making inquiries monthly as to its expenditure. This first came to my notice when I saw that the representatives on that board, who were from the social partners, were booking hotels such as the Mount Juliet, and that a group such as Threshold was booking five-star hotels in which to hold its meetings. I worry when such things happen.

If Sinn Féin was in power, it would obviously have like-minded people nominated to various boards. That is life. That is democracy. One should not be debarred from any organisation or body because of religious or political persuasion. The Minister has the right to make appointments. We saw what happened when we gave away ministerial power to the HSE, for example, in that public representatives now have no say. Why we would want to get rid of the Minister's ability to make appointments is beyond me. That is a democratic right of the Minister. I do not agree with and will not support the Bill.

Senator Ann Ormonde: I welcome the Minister of State, Deputy Mansergh. I am pleased to participate in and listen to the debate. I congratulate Senator Ross on his highlighting of recent developments with State boards and bringing that matter to light. Perhaps that has prompted bringing the matter further and into this Chamber.

I agree with most of the points raised by Senator Ross, and go along with the suggestion that we must consider issues of transparency and the scrutiny of appointments. However, I will not vote for the Bill on the basis of what the Minister of State outlined, namely, that this issue will be part of a bigger Bill, that reform is on the way, that we will rationalise the agencies and seek the transformation of the public service, and that we will have a new code of practice for the governance of State bodies. In the midst of all of this, we have the rationalisation of the State agencies and the McCarthy report as well as the context within which public appointments will take place.

I welcome all of that. However, there is one thread coming through in the debate which I do not like. I would hate to think that, because of political affiliations, we are seen as cronies or that anybody who is on a board is a crony and that this is all about patronage. Those serving on boards are very fine people who may have political affiliations. As has been highlighted in the debate, these are people who have the necessary skills, professional experience and qualifications. Why should sitting councillors, former councillors, former TDs and former Senators not be on a board if they have the necessary skills and qualifications?

Should they have to go through the loop of being interviewed for appointment? They have already proved themselves through their experience and qualifications yet it is suggested they

should be put through another loop because some Members are not satisfied they would be suitable for the job. I do not believe in that. If such people adhere to a code of practice and are persons of integrity, why not appoint them? Let us consider a panel of people who are suitable to the various bodies or State boards. It is a positive step and is the way I want the Seanad to move forward by having such a debate, thus adding to whatever Bill is introduced by the Government. In that way, many of the ideas that have been discussed here will be incorporated in the Bill. That is all I want. Nobody is denying that we must have integrity and must adhere to a code of practice and standards in public office. We have had awful experiences and I do not want any of us ever again to be in this embarrassing position. I never want to see a repeat of recent developments. I welcome this debate and would welcome a further discussion on the next Stage. Unfortunately, I cannot vote with Senator Ross tonight.

Senator David Norris: Go on.

Senator Ann Ormonde: However, I agree with many of the points he raised.

Senator Jerry Buttimer: I wish to share time with Senator Norris.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Jerry Buttimer: I congratulate Senator Ross on the Bill and commend him on bringing it before the House. I welcome the Minister of State, Deputy Mansergh, and thank him for his great speech, which I listened to with incredulity. If ever I heard a case for Senator Ross's Bill, it was in the contributions of the Minister of State and Senators Ormonde and Butler. Senator Ormonde should buy a book entitled *The Drumcondra Mafia*, which, more than anything I can say, illustrates why this Bill is necessary. If we are talking about reform of the system, the Bill is timely. Outside in real Ireland, cynicism, annoyance and frustration rest in the hearts and minds of Irish people about the political class and the political system. Whether we like it, cronyism and patronage are seen to be alive and well. The examples I quote concern what happened with FÁS and yesterday with CIE. The Minister of State may protest and give me all the articulate answers he wants to, but that is the reality. People feel the system has let them down and that appointees to State boards have done the public interest no good. It might be a generalisation but that is the reality. The politics of a bygone era must be overcome. The old adage rings true: "It is not what you know, but who you know." That has been the Fianna Fáil way for generations, regardless of whether the Minister of State likes it. I am not saying he is like that, but some of his colleagues definitely are.

The Bill attempts to create transparency and openness in public appointments. I will not name them, but I know of people whom I would not appoint to clean a dog kennel, yet they are getting stipends equivalent to some people's wages. We must restore trust and confidence in the political system. At the first sitting of this Seanad in 2007, Senator Ross spoke about patronage being the curse of Irish political life. He was right, but look at what has happened since then. The bottom has fallen out of the whole political system. In some cases, the boards of semi-State organisations are rotten with Fianna Fáil appointees. Senator Ormonde may grimace but it is a fact of life. We need openness and transparency. I know it hurts her because it is the truth, and I understand that. If I was in her position, I would be equally embarrassed.

Senator Ann Ormonde: The Senator is not very convincing.

Senator Jerry Buttimer: We must get rid of cronyism and patronage if we are to restore public trust and confidence in the political system.

Senator Ann Ormonde: Of course.

Senator Jerry Buttimer: If we are honest with one another, that is what we must do. The Bill is important because it seeks to provide accountability and transparency. If we take Senator Ormonde's point about qualifications, that will happen. I do not agree that someone should be debarred from appointment to a State board because he or she is a political appointee or a member of a political party. I never said that, but we should put qualified people in who will act in the public interest, ask questions and be held to account. Let us get real. Why are we afraid of having confirmation hearings here like there are in America? What would be wrong with us investigating the board of FÁS, Iarnród Éireann or Bord Gáis? Deputy Leo Varadkar introduced the Public Appointments Transparency Bill in the other House, under which Ministers would be asked to appoint the best qualified people to serve on State boards. In addition, board members would have to understand their responsibilities. In some cases, such people come up for the day, get their money and go home. That is what is wrong with a system where patronage is involved.

I am looking forward to the end of the old boys' network, which exists through political connections. God knows, we need to get rid of the old pals' act. Ms Elaine Byrne wrote a very good exposé in *The Irish Times* in March this year, entitled "Letting go of self-destructive Pyrrhic behaviour". I will not go into it in detail because I do not have sufficient time. She wrote about the consequences of the failure of the traditional majority in Ireland. Her article also referred to unemployment and the whispers of potential civil unrest growing louder, which is the reality we are facing.

I commend the Bill and hope the Green Party Senators will stand by their convictions by voting against the Government. If they are true to what the then Deputy Dan Boyle spoke about in the other House in March 2007, they will have the courage to vote with the Opposition now. Politics as we know it has got to change. There must be a greater level of transparency and honesty.

Senator David Norris: I thank Senator Buttimer for giving me time to take part in this important debate. I commend my colleague, Senator Ross, on a superb political manoeuvre. He has been talking about this for many years, before most of the other Senators became Members of the House. I remember him raising this matter many years ago. Both he and Senator O'Toole did a remarkable job. I listened with delight to part of what Senator Ross said, as he attacked the subject with his usual panache and wit. I thought that there was revealed not just a fantastic investigative journalist, but also a superb post-modernist, comic dramatist *manqué* because he quoted slabs of Senator Boyle and other members of the Green Party. As Oscar Wilde remarked perceptively: "It all depends on who's saying something". That is what the dramatist sees. It was very interesting and important to have Senator Boyle and the Government confronted with their own words, not just a dramatic trick. If we are looking for openness, accountability and transparency, it is important to measure performance between what is spouted in opposition and what is put into practice in Government. This evening we had a remarkable and ironic job in that regard. It is important to put this matter up to the Government.

With regard to openness, accountability and transparency, quite a number of years ago, I raised in this House the fact that a document had come into my hands. It was a Supplementary Estimate for various things, including the secret service, which then cost €100,000. I thought the fact they were declaring a budget head of that sum for the Irish secret service was really openness, transparency and accountability in practice. As I pointed out, however, the Irish secret service was a contradiction in terms, an oxymoron, rather like its counterpart, British intelligence. There could be no such thing as an Irish secret service, because we cannot keep a secret. We now have it again in the sum of €200,000.

Some serious issues were highlighted in the debate. On some of the State boards we have serious concerns about the quality, methodology and reason for appointing certain people. The Government addressed this matter not by reforming it or opening it to competition, but instead by having a much more closed situation where the Minister appoints directly. That is actually worse. It is a catastrophic disgrace, but it is all of a piece. I remember when the legislation to establish the Competition Authority was debated in this House. I happened to notice that there was no competition or openness for positions within the Competition Authority itself. I put down amendments that were eventually and reluctantly accepted. That body was vested with the authority to supervise this kind of material on behalf of other people.

I looked at the Minister of State's speech and agreed with some of it. It is important we do not dishearten the ordinary members of State bodies. This State has been very well served since the time of Seán Lemass by decent people who have a sense of honour and decency and who have done remarkable work. That does not mean the system should be immune from criticism, as the Minister of State concedes. However, his following arguments concerning the Minister and the wonderful way in which the appointments were made and how inherently open this was, when really it is not I found to be somewhat weak

The Minister of State then delighted me by saying that the House also needed to form its view before we rush to another moral untested conclusion. The spectacle of this Government rushing anywhere would be a prospect to be greatly welcomed. This has, I believe, been a Government of very considerable caution.

On the question of international bodies, I am slightly extending the matter here. It would be very regrettable if this Government appeared to be on the point of supporting Tony Blair as President of the European Union. I cannot think of a more discredited international figure, especially in the light of his disgraceful behaviour with regard to the Iraq war. I would appeal to the Minister to take back to his colleagues the widespread feelings among people throughout the country about this issue. I hear it all the time and I see it in the newspapers that the ordinary people of Ireland are revolted by the Iraq war and the appallingly inopportune appointment of Blair as a Middle East negotiator.

On the question of a code of practice for good governance on State bodies and so on, I have served on a number of boards. I have never been paid, but my antennae go up when I hear people prating about good governance. The retreat of a person into prating about good governance is analogous to the last refuge of the scoundrel, as Johnson described patriotism. Such persons always have something Machiavellian up their sleeves. The mechanism is so complicated and burdensome that the Government is not going to do it. I commend Senators Ross and O'Toole. It was a wonderful witty lively evening and also has a serious political point.

Senator Paddy Burke: I congratulate Senator Ross on bringing forward this Bill. As Senator Norris has said, State boards have done a great service to this country. Like it or not, some people have not lived up to the expectations placed on them by Ministers over the years. However, there is great merit in the debate as put forward this evening if only for one reason — vested interests. A Member of the other House, Deputy Phil Hogan, recently uncovered a situation in which a member of a particular board had a vested interest and nothing was done about it. This legislation could cover such situations. I can appreciate the Minister of State's point to the effect that the provisions of the legislation could place an enormous burden on any Oireachtas committee. However, in many cases, especially where there are questions of vested interests, the Oireachtas committee as proposed by Senators Ross and O'Toole could well play a vital role.

Senator Shane Ross: I thank all Senators who contributed and the Minister of State and everyone else for their constructive attitude to the Bill as proposed. It has been debated in a somewhat restrained atmosphere, and there has been to some degree a cosy acceptance that there are many good decent people on these boards. That is absolutely true. There is no attempt in this Bill to attack those people or downgrade them in any way.

However, I do not believe that the Minister of State and those on the Government side should seek to say, in effect, “Don’t hit me, I’ve got the baby in my arms”, and infer that because there many good members of State boards we cannot criticise the others or that the system and the principle are therefore right. That is not true. Many people sit on State boards because of the money. There is a good deal of money involved in this. Members of the board of CIE get €17,000 a year and FÁS board members get €14,000 a year. That is why many people take such appointments, not because they have a sense of public duty. They like the cash.

Deputy Martin Mansergh: There are other boards for which there is no money at all.

Senator Shane Ross: I agree with the Minister of State, but they are not the target of this legislation. The target is those who are doing no work, are not qualified and are getting enormous amounts of cash for it. There are many of those. I could list them but I have not got time.

Also, because I took the example of the European Commissioners, it is not right to say, in effect, we have had some able Fianna Fáil people as European Commissioners.

Deputy Martin Mansergh: They have been able.

Senator Shane Ross: I agree they have been able, but they have all been Fianna Fáil, for example, Commissioners McCreevy, O’Kennedy——

Senator Paddy Burke: Pádraig Flynn.

Senator Shane Ross: ——and Pádraig Flynn.

Deputy Martin Mansergh: What about Richard Burke?

Senator Shane Ross: Richard Burke was a political stunt, as the Minister of State knows very well. That was the worst possible example. It was a political stunt. Richard Burke was chosen because he was involved in a by-election situation. He was appointed to create a by-election. He was the worst and most insidious choice in that way and was chosen for the worst motives.

Let us not take Richard Burke but let us look at the Minister of State’s defence. I do not relish the Minister of State welcoming the Bill and then saying there are a few details in it, however, with which he does not agree. This Bill is open to amendment. If he agrees with the principles, as he seems to with much of it, and if Senators Boyle and de Búrca also agree with the principles, let us vote it through. Then let us accept the Minister of State’s amendments, but he is not genuine about this at all. He does not want any change whatsoever. He has hidden behind all manner of OECD detail, most of which I do not understand. He says the Cabinet has now set up steering committees and groups to consider this. He also said, and Senator Norris touched on this, that we need to take a hard look at the semi-State system which has stood Fianna Fáil so well for so long. People have had a good hard look at this for a long time and it stinks. It does not work. It works for Fianna Fáil but not for anyone else. That is why it is so important to look at this.

We are not looking for very much. We are just looking for these decisions not to be made behind closed doors by a single Minister telling nobody why or how he or she makes them because we know many of them are made for political reasons. We are looking for the criteria

to be made public and for the individuals to be subject to some sort of public scrutiny. That is all. Senator Boyle appeared before us with a halfway house measure, but this is not good enough. As I understand it, what is being proposed in the programme for Government is that an independent panel will be set up, half of which will comprise political hacks and the other half independent people from whom the Minister will have recommendations to be chosen as well. That is not much of an improvement, just a gesture. We should be looking for the Minister to go the whole hog on the principle of transparency and accountability.

In making a final plea, I acknowledge there have been some really fine appointments. The appointment of Patrick Honohan as Governor of the Central Bank, for instance, was an extremely fine decision and it was made just recently. I see no reason that appointment should not have come up for discussion at an Oireachtas joint committee. It would have been welcome. He is a man who would have shone and would have raised the status of the office if he had come before a joint committee and been quizzed in public because he would have shown his abilities and that he was on top of the subject. It is a great regret that people of that calibre who are appointed are not subject to this sort of scrutiny, which would increase confidence in the system rather than diminish those people in the eyes of the public who see them as being appointed behind closed doors.

A very delicate issue has not been mentioned in this debate. Judges are political appointees. Judges are appointed by politicians. There is absolutely no point in us pretending that prior to their appointment somehow they are above politics. Maybe afterwards they can lay some claim to it. It is common gossip down in the Law Library that it is the turn of a particular person this time because of his or her political colour. It is deeply regrettable that that should be material or considered material by anybody. However, there is no doubt that people appointed to the Judiciary, given that they are political appointments, must have political leanings in order to get appointed or be considered for appointment. That matter could also come under the scope of the Bill.

Senator Boyle in a good humoured speech which acknowledged the merits of what we were proposing revealed something that I did not know. This is important. He said proudly that when the Green Party was offered a seat on a State board, it went through an internal process. In that way it decided who was appointed to which boards. I did not know the Green Party was offered places on State boards. I suspected it, but I did not realise that someone in the Government said to the Green Party: "This time it's your turn, lads; we take the next five or 15, this time it's yours." I did not realise it was as nakedly political as that and that someone in the Government would say to the Green Party: "This is your one, appoint whom you like, it's the Green Party choice; the next one is ours." That is so political and is open to abuse. It is not necessarily corrupt but it is certainly a malpractice that should be stopped.

The Seanad divided: Tá, 23; Níl, 25.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
McFadden, Nicky.

Mullen, Rónán.
Norris, David.
O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Nil

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.
 Keaveney, Cecilia.

Leyden, Terry.
 Ó Domhnaill, Brian.
 Ó Murchú, Labhrás.
 O'Brien, Francis.
 O'Donovan, Denis.
 O'Malley, Fiona.
 O'Sullivan, Ned.
 Ormonde, Ann.
 Phelan, Kieran.
 Walsh, Jim.
 White, Mary M.
 Wilson, Diarmuid.

Tellers: Tá, Senators Joe O'Toole and Shane Ross; Níl, Senators Déirdre de Búrca and Diarmuid Wilson.

Question declared lost.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: Tomorrow at 10.30 a.m.

Adjournment Matters.

Inter-Country Adoptions.

Senator Paschal Donohoe: I thank the Cathaoirleach for selecting this issue for discussion on the Adjournment and I thank the Minister of State, Deputy Martin Mansergh, for coming to the House to respond. The problems being experienced by couples seeking to adopt children from abroad have been comprehensively discussed in this House, with much of the debate focusing on the situation as it pertains to Vietnam. Much work has been done by the Government in this regard and there has been a thorough questioning of that work by Members on this side of the House.

The focus of this Adjournment matter is the situation of families seeking to adopt children from Ethiopia. My understanding of this issue has developed in recent days and it is clear that it presents a very different scenario from that associated with Vietnam. The situation in which these couples find themselves has not featured in public debate to anywhere the same extent as that of prospective parents hoping to adopt children from other jurisdictions. My purpose in tabling this matter for discussion is to attain clarity on the position of adoptions from Ethiopia in the context of the Adoption Bill 2009 and the discussions in which the Government is engaged with representatives of two countries.

I have three particular concerns which I hope the Minister of State will address. The first relates to the nature of transitional agreements that may be drafted with Ethiopia, if such are drafted, prior to enactment of the legislation. There has been significant discussion regarding transitional agreements with other countries, but the nature of any planned transitional agreement with Ethiopia is something of which there is less understanding. I hope the Minister will clarify the situation in regard to couples who are seeking to adopt from that country and have gone through all the stages of the adoption process before the new legislation is implemented.

My second question relates to the content of the legislation. My understanding is that one of the conditions for countries to participate in the new arrangement is that they be signatories of the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption. Ethiopia currently is not a signatory to the Hague Convention. In preparing for this debate this evening, it became apparent to me that the stipulation that a country be a member of the Hague Convention for adoption processes appears to be a more demanding criterion than those laid down for many neighbouring countries. In the context of the proposed legislation being brought forward by the Government, what will be the situation of couples who are looking to adopt out of Ethiopia if that country is not a signatory to the Hague Convention?

In recent statements, the Minister of State has indicated that families who are some way along the adoption process will be offered an arrangement to ensure they are not left high and dry at the end of all of this. The couple I have mentioned have gone through every stage of the process. They have been cleared by the authorities in Ireland, they have been supported by the HSE, they are in contact with the orphanages in Ethiopia, but a child has not become available to them for adoption.

My contribution up to this point has been very technical because I am talking about conventions and transitional agreements. However, the human element of this was brought home to me when I spoke to the family in question. They showed me the work they had done to become suitable to adopt a child from Ethiopia. One of the things they needed to do was to demonstrate to the HSE that they had built up a sensitivity of what it would be like to adopt a child from that country so that when they are bringing up the child they will be aware of the culture from which the child came. This family had gone along to the Ethiopian new year celebrations and had met the Ethiopian ambassador. It is heart rending to find the family in question really confused about where things stand and facing the dilemma that at the end of all this, they might not be able to adopt the child and give it a better life.

Minister of State at the Department of Finance (Deputy Martin Mansergh): I will be taking this Adjournment matter on behalf of the Minister of State with responsibility for children and youth affairs. I am familiar from experience in my constituency with the issues surrounding adoption from Vietnam, and I know about the strong desires and emotions involved. I hope this reply will throw some light on the Senator's concerns.

The Government's objective on adoption is to provide a regime in which the child is at the centre of the adoption process, be it an inter-country or a domestic adoption, and that adoptions are effected in a manner that is legal, safe and secure. The most important development in achieving that objective is the development of an appropriate legislative regime that recognises the changed and changing global situation *vis-à-vis* adoption over the past 20 years. The Adoption Bill 2009, which was published on 23 January and which includes the regime of the Hague Convention, provides an assurance for individual children, their families and the State that appropriate procedures have been followed and that the adoption was affected in the best interests of the child. A core principle of both the Adoption Bill 2009 and the Hague Convention is that the child's interests must be paramount.

The Hague Convention, which is given the force of law in this Bill, effectively puts in place an agreement between states to regulate the standards that will apply in each jurisdiction. It is to put in place safeguards to ensure acceptable standards are being applied in other countries over which, of course, we have no jurisdiction. We are encouraged at the progress that has been made in the past year, including the publication of the Bill and its passage through the Seanad. The Minister of State hopes to bring the Bill into the Dáil in the coming weeks and he remains hopeful that Ireland will finally ratify the Hague Convention early in 2010.

[Deputy Martin Mansergh.]

Ireland does not have a bilateral agreement in place with Ethiopia for the adoption of children from that country. Consideration of this matter is at an early stage and, unfortunately, has been slow because of the workload involved in trying to advance the case in Vietnam. While the Minister of State hopes to make further decisions regarding progress in these areas in the not too distant future, it will be carried out in the context of the legislative system envisaged in the Adoption Bill 2009.

The Bill is designed to give force of law to the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption. The new legislation is designed to provide a framework to ensure appropriate procedures have been followed and all adoptions are effected in the best interests of the child. Chapter 3 of the Adoption Bill 2009 sets out extensive provisions regarding non-contracting states and mirrors precisely the standards required for the Hague countries. There is no prohibition on adoption from non-Hague countries. However, such adoptions must be carried out in the context of a bilateral agreement. This applies in the case of adoptions from Ethiopia and other countries that have not yet ratified the Hague Convention and would seem unlikely to do so in the immediate future.

The current policy position, as set out in the Adoption Bill 2009, is that for an adoption to be registered under the Bill, it must be effected in a country with which Ireland has a bilateral agreement or have been effected prior to the commencement of the new law. This is to ensure a single standard applies and that applicants can have some degree of confidence in the systems in place in the sending country. It provides a protection for children, their parents and their adoptive parents and it is a minimum standard the Minister of State is not prepared to dilute.

The priority for those families who want to adopt from Ethiopia is the advancement of a bilateral agreement. Department of Health and Children officials have been in regular contact with embassy staff on the ground in Addis Ababa over the course of 2009. With embassy assistance, they have been gathering information and liaising with other countries on arrangements they have in place for inter-country adoption from Ethiopia. The Minister of State has indicated his objective to achieve further progress in this regard over the coming months.

There are considerable legal complexities involved which are already under consideration. More importantly, it must be recognised that the Department of Health and Children is working with another sovereign state and must be mindful and respectful of the views of that state.

The Minister of State is considering submissions made on inter-country adoption and the Adoption Bill 2009 by a number of representative groups and has further meetings scheduled. He is also acutely conscious of the concerns of prospective adoptive parents, and over recent months has met regularly with both individual prospective adoptive parents and representative groups.

The Minister of State is deeply aware of the angst, frustration and emotion that prospective adoptive parents continue to experience at this time and has communicated at every opportunity updates on these matters. He is committed to continuing with this process.

Senator Paschal Donohoe: I thank the Minister of State for the response. It contains some information that will be of help in responding to the family and people in a similar situation, especially the clarification regarding what the outcome might be for non-Hague countries once the legislation is published. It is a helpful response.

Schools Building Projects.

Senator Brian Ó Domhnaill: I thank the Chair for the opportunity to raise this issue. It concerns a school in my constituency, Scoil Chonaill Naofa, Bunbeg. I have raised this matter

on a number of occasions in the Seanad since 2007 and I am glad progress is being made. I was informed on 16 September last by the Minister for Education and Science, Deputy Batt O’Keeffe, in a letter that officials from his Department would shortly write to the board of management to authorise its design team to revise the tender documents in preparation for progressing the project to tender and construction. Previous to that the Minister and the Department had given approval to use the former Coláiste Cholmcille building as alternative accommodation during the school building project. The Minister went on in his letter to say the question of the main project proceeding to tender would be considered in the context of finalising the 2010 capital programme.

The project itself relates to the provision of accommodation to cater for pupils at the school and four mainstream staff teachers, together with ancillary staff, and planning permission for the project has been granted. There have been further developments since the Minister’s letter of 16 September last. I am glad to report that officials from the Department’s school building unit have been in touch with the board of management of the school and have met the design team for the project at Scoil Chonaill Naofa. I understand that the mandatory stage 2b documentation has been provided in compliance with the Department’s guidelines. The board of management of the school has drawn my attention to one of the technical specifications surrounding that process. Subsection (*k*) of a document produced by the Department’s planning and building unit, Design Team Procedures 2007 — Practice Note 1, states: “where approval to go to tender is delayed more than 1 month after the submission of the Stage 2b report, it will be necessary for the Quantity Surveyor to up-date the cost-check prior to issuing tenders”. That places a further burden on the board of management, in effect. The board has essentially asked me to seek approval for the project to proceed to stage 3 and the subsequent stages of design team procedures, tender and construction. If additional delays cause the project to be put back until the end of November, it may be necessary for the board of management to revisit the tender documentation once more, which would place an additional burden on it.

I take this opportunity to thank the Minister, Deputy Batt O’Keeffe, for his commitment to this project. He has listened to my representations and those of my constituency colleagues in respect of this project. A great deal has been achieved in recent months so it is important that we help the board of management by allowing the project to proceed to tender and construction as quickly as possible. While I appreciate that the Department’s capital programme is facing financial constraints, I hope this project can go to tender. The intention is that competitive tenders will be achieved and the project will be completed in the next six to 12 months. A number of factors suggest it would be advantageous to go to tender at this stage. The alternative accommodation that is now available at Coláiste Cholmcille might not be available in the long term and it is important that we allow the project to proceed in the short term.

Deputy Martin Mansergh: I am happy to respond on behalf of my colleague, the Minister for Education and Science, Deputy Batt O’Keeffe, who unfortunately cannot be present. I thank Senator Ó Domhnaill for raising this matter and giving me an opportunity to outline to the Seanad the Government’s strategy for capital investment in education projects and the current position in respect of Scoil Chonaill Naofa in Bunbeg, County Donegal. The modernisation of the facilities in our existing school building stock, like the need to respond to emerging education needs in areas of rapid population growth, is a significant challenge. The Government has shown a consistent determination to improve the condition of our school buildings and to ensure appropriate facilities are in place to enable the implementation of a broad and balanced curriculum. All applications for capital funding are assessed in the planning and building unit of the Department of Education and Science. The assessment process determines the extent

[Deputy Martin Mansergh.]

and type of need, based on the demographics of an area, proposed housing developments, condition of buildings and site capacity etc., and leads to the finding of an appropriate accommodation solution. As part of this process, each project is assigned a band rating under the published prioritisation criteria for large-scale building projects, which were originally devised following consultation with the education partners before being revised and refined in 2004. Projects are selected for inclusion in the school building and modernisation programme on the basis of priority of need. This is reflected in the band rating that is assigned to a project. Each proposed building project moves through the system in a manner that is commensurate with the rating assigned to it. There are four band ratings, of which band 1 is the highest and band 4 the lowest. Band 1 projects include the provision of buildings where none exists but there is a high demand for pupil places. Band 4 projects make provision for desirable, but not necessarily urgent or essential facilities, such as libraries and new sports halls. The proposed building project for Scoil Chonaill Naofa has been assigned a band 2.1 rating.

All major projects on the Department of Education and Science capital programme progress through the same structured process of architectural planning, which is divided into clearly defined stages. The stages of architectural planning are set out in the Department's design team procedures and are necessary to comply with Department of Finance guidelines, which require that capital projects be fully designed prior to going to tender. They also ensure the proper cost management of capital projects and facilitate compliance with statutory and public procurement requirements. Five stages are involved in the progression of major school projects through architectural planning. The project at Scoil Chonaill Naofa is at an advanced stage of architectural planning. The brief for this extension and refurbishment project is to provide accommodation for a long-term projected staffing of a principal, four mainstream teachers and ancillary staff. When the Minister met a deputation from Scoil Chonaill Naofa in Bunbeg, a new cost-saving proposal for decanting the pupils for the duration of the project was presented and was welcomed by the Minister. Last month, a letter issued to the chairperson of the board of management, requesting the design team to begin work on revising the stage 2b documentation for submission to the Department. These revisions are required to ensure that the contract is in line with the new Government construction contract committee forms of contract. The design team has since been in contact with the Department regarding the submission of stage 2b documentation. Members of the design team and a representative of the board of management will shortly be invited to attend a departmental briefing session, which will explain fully what is required in revising the tender documentation to take account of the requirements of the new forms of contract. I thank the Senator again for giving me an opportunity to outline to the Seanad the current position regarding the building project at Scoil Chonaill Naofa.

Denominational Schools.

Senator Jerry Buttimer: I would like to share time with Senator Ross.

An Cathaoirleach: Is that agreed? Agreed.

Senator Jerry Buttimer: I thank the Cathaoirleach for allowing me to raise this issue, which was brought to my attention by parents and teachers and which has been commented on publicly by both Church of Ireland and Catholic clergy. The many fine Protestant schools in Cork, including Ashton School, St. Luke's national school, St. Michael's national school in Blackrock, St. Fin Barre's national school and St. Mary's national school in Rockboro, have made a valuable contribution to education in this country.

I am curious to find out why the Attorney General has supposedly given sudden advice to the effect that the Protestant ancillary grant should be withdrawn, after 43 years. Why is it suddenly proposed to stop a grant that has been provided for so many years? Senator Ross and I previously raised on the Adjournment our concerns about fee-paying schools. In this instance, we are talking about €2.8 million.

Is it the case, as Bishop Colton of Cork, Cloyne and Ross suggested in an interview with the *Irish Examiner* last week, that the Minister is hiding “behind secret advice about the document”? As the bishop said, the document in question is not the Minister’s “alone, but the charter of the people of this country — our Constitution”. As Bishop Colton put it:

Are we seriously to believe that the founding fathers and framers of our Constitution envisaged a situation where this Republic would become a hostile place for the children of the Protestant minority?

The Archbishop of Dublin, Dr. Neill, has accused the Department of Education and Science of a “determined and doctrinaire attack against Protestant schools”.

It is clear that we are facing a crisis because the two sides are on a collision course about the withdrawal of this grant. I understand that the Department is struggling to fund the education system, which is at the centre of everyone’s thinking on the matter. Surely we have an obligation to protect the rights of all religions, including the minority religions. We need to guarantee the right of Protestant schools to provide education. If we are concerned about €2.8 million, we are concerned about a very small amount of money.

I wish to repeat some of the questions asked by Deputies Kenny and Brian Hayes in the Dáil last week. Who sought the advice of the Attorney General in this regard? When was that advice sought? Why was this advice suddenly given, after 43 years?

Many of my friends in Cork went to Protestant schools. I went to St. Finbarr’s in Farranferris, the Catholic seminary, and many of my friends went to Ashton School. I know from the education my friends got that it was good and wholesome. We have an obligation to a new generation of students to allow the Protestant educational tradition to continue. The financial pressures on some schools in Cork are unnecessary and unfair. I look forward to the Minister of State’s reply.

Senator Shane Ross: I thank Senator Buttimer for sharing time. There is a very strong campaign to reverse the proposed decision to withdraw the grant for Protestant schools. I endorse what Senator Buttimer said. It seems extraordinary that the Attorney General has suddenly found that the grant may be unconstitutional. It might be unconstitutional to withdraw it when it has been in place for 40 years.

I normally protest about having the wrong Minister in the House but it is a great opportunity that we have the wrong Minister here today. I hope the script of the Minister of State, Deputy Mansergh, does not conflict with his faith when he reads it. Am I correct in saying he is associated with the synod of the Church of Ireland? He should be naturally sympathetic to my point of view and I will be particularly interested when he departs from his script.

I acknowledge the contribution of Archbishop Diarmuid Martin, who very recently stated in an extraordinarily helpful intervention that the ethos of the Protestant schools ought to be defended. That was an unusual intervention in a controversy and it was brave and helpful. The Government should note it in that this is not purely a denominational issue. Religions other

[Senator Shane Ross.]

than the Protestant religion believe the Protestant ethos ought to be protected and that it adds to the general mosaic of Irish life.

It would be fair to say there are those from across the Border who monitor issues such as this very closely and how this nation treats its minorities. They watch and make judgments accordingly. This case is very high profile and people in the Protestant community feel strongly about it. They have run an extraordinarily passionate campaign to ensure the grant will not be withdrawn. The Government should take notice. It is a question of very small money in the overall scheme of things. We are not even talking about a decision that will necessarily save money. It may well be that the poorest members of the Protestant community will suffer, not the better off. This should be borne in mind by the Minister when he makes his decision.

I ask the Minister of State to convey my views and those of Senator Buttimer to the Minister for Education and Science. I would be very interested to hear the Minister of State's very personal views.

Deputy Martin Mansergh: Before I read the official reply, I say to Senator Ross and others that I am not a Protestant first and an Irish citizen second.

Senator Shane Ross: The Minister of State is both.

Deputy Martin Mansergh: On behalf of the Minister for Education and Science, Deputy Batt O'Keeffe, I am pleased to be given the opportunity to confirm to the House the Government's continued commitment to Protestant schools and to clarify the position on the funding arrangements for fee-charging Protestant schools. I assure the Senator that the Minister and his colleagues in Government recognise the importance of ensuring students from a Protestant background can attend a school that reflects their denominational ethos.

Since the changes in the October 2008 budget, the Minister has had several meetings with representatives of the Protestant community, as has the Taoiseach. Just last week, the Minister had a constructive meeting with representatives of the Protestant education sector. These meetings have outlined the background to the changes in the October 2008 budget, and have explored future funding arrangements. Concern has been expressed over two aspects of the budgetary changes.

The first aspect relates to the allocation of teachers to all fee-charging schools. By making the changes to the pupil-teacher ratio, the Government recognised that such schools, regardless of religious ethos, have extra income which they can use and have used to employ additional teachers. If the Minister had not made this change, he would have been faced with making a more severe change to the staffing position of all schools. The measures that differentiated between those schools with fee income and those without were fairer to all schools. The case that has been made is that this change should not apply to Protestant fee-charging schools.

The second aspect is the withdrawal of certain grants that had been paid to Protestant fee-charging schools that were not paid to Catholic fee-charging schools. The argument has been made that the grants should be restored. There may be an impression among the general public, as supported by media comment, that the block grant has been abolished. No changes have been made to the block grant, which has amounted to €6.5 million in 2009. The Minister has made a commitment that the block grant will remain in place. The block grant covers capitation, tuition and boarding costs and is distributed through the secondary education committee established by the churches concerned. This fund ensures that necessitous Protestant children can attend a school of their choice. This grant remains in place.

The Constitution, in Article 44, permits State aid to denominational schools, but only on the basis that there be no discrimination between schools under different religious management. The Department has legal advices on this matter, including advice from the Attorney General. The Minister is satisfied that the budget changes are consistent with the Constitution. If resources are provided to Protestant fee-charging schools as a special case, there is a constitutional difficulty.

The Minister has consistently expressed his willingness to consider any proposals that would enable the available funding to be focused and adjusted to meet more effectively the twin objectives of access for individuals and sustaining the schools that they wish to attend, particularly those in rural areas. The Minister for Education and Science will continue to work with representatives of the Protestant educational sector to ensure State funding made available to the Protestant community is targeted in the fairest way possible to meet the needs of their children and their schools.

Senator Jerry Buttimer: I thank the Minister of State for his remarks. I made no reference to his faith, as he knows. His reply is wholly unsatisfactory given that the block grant is not the issue. An ancillary grant is being paid. Why is the advice of the Attorney General suddenly being sought on it? I hope we can have this clarified.

As the Minister of State said in his reply, there are many schools providing education to those who cannot afford to pay for it. Fundamentally, we need clarity on this and to have the grant restored.

Deputy Martin Mansergh: With the indulgence of the Cathaoirleach, I will give a more personal view and analysis which I hope will none the less be consistent with the position of the Government and the Department of Education and Science. Historically, the State has treated favourably Protestant schools and pupils of those schools. It has allowed small schools to continue in existence that might not otherwise have been allowed to do so.

I interpret the equality provisions in the Constitution to be not inconsistent with positive discrimination. A global understanding of equality is that, in order to establish it, positive discrimination may be necessary in certain circumstances. That may have been the case in the past and may still be the case in some, but not all, instances. The Government is faced with severe financial constraints the consequences of which are bearing down on everybody, with complaints from almost every sector.

I was a member of the board of a Protestant secondary school in Dublin city for almost 20 years. Shortly before departing last year, I inquired about the number of block grant pupils among the school population of 630 and was told it was in single figures. However, in other areas, including Senator Buttimer's county, the proportion may be 30% or 40% and, in one or two instances, even higher. The case can be made that the cutbacks announced last October bear more heavily on such schools than on those with no substantial disadvantaged intake. The Taoiseach, the Minister and his departmental officials have made it clear in discussions that they are prepared to consider targeted assistance to schools most in need.

Based on the personal experience I have cited, I am not overly sympathetic to an undifferentiated case which does not incorporate recognition of the differing situations of schools. On the question of why this change is being instituted now, the answer may well be that the composition of these schools has evolved. What was equitable and correct 40 years ago, given the composition of the schools in question, may not necessarily be so to the same extent today. I personally regret that a type of religious emotional charge, which sometimes arises in contro-

[Deputy Martin Mansergh.]

versies of this type, such as that relating to Tallaght hospital, has entered the debate. I am certain there is no ill will on the part of the Government towards Protestant schools. The only fault I have found in this regard in more than 30 years of public administration is that officialdom, sometimes even new Ministers, may not initially be aware of the different arrangements that have been in place since the late 1960s and the rationale behind them.

I hope a resolution can be found to this problem in the context of next year's budget. It is not in the public interest that this type of public stand-off, which does not offer a sufficiently differentiated and nuanced representation of the nature of the problem, should continue.

The Seanad adjourned at 8.25 p.m. until 10.30 a.m on Thursday, 29 October 2009.