

SEANAD ÉIREANN

Déardaoin, 5 Samhain 2009.
Thursday, 5 November 2009.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

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

The need for the Minister for Justice, Equality and Law Reform to outline the amount of money raised annually under the fines scheme for cyclists who do not have a front white and back red light on their bicycles; and to comment on efforts made at European Union level to address the omnipresence of bikes without lights.

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

The need for the Minister for Community, Rural and Gaeltacht Affairs to make a statement on the future plans he has for RAPID schemes across disadvantaged areas.

I have also received notice from Senator Liam Twomey of the following matter:

The need for the Minister for Finance to give consideration to establishing a national special purpose vehicle, SPV, along the lines of the national loan of the first Dáil which would allow the citizens of Ireland to buy shares in the SPV of the National Asset Management Agency, NAMA, and own this SPV rather than private investors, which could help to further legitimise the NAMA project in the eyes of the ordinary citizens of Ireland.

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

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, statements on the education and training responses to the economic downturn, to be taken at the conclusion of the Order of Business and conclude not later than 1 p.m., if not previously concluded, with the contributions of spokespersons not to exceed ten minutes, those of all other Senators not to exceed seven minutes, on which Senators may share time and with the Minister to be called upon not later than 12.50 p.m. for concluding comments; and No. 2, Court and Court Officers Bill 2009 – Second Stage, to be taken at the conclusion of No. 1 but not earlier than 1.30 p.m., with the contributions of spokespersons not to exceed 12 minutes, those of all other Senators not to exceed eight minutes and on which Senators may share time. The business of the House will be interrupted between 1 p.m. and 1.30 p.m.

Senator Frances Fitzgerald: Today marks the 25th anniversary of the radio programme, “Morning Ireland”. It was great to hear David Hanly on the airwaves again on this morning’s celebration programme. I pay tribute to “Morning Ireland” and the work it has done in public service broadcasting, keeping political debate alive and informing the public over 25 years. It is appropriate to pay tribute to a programme which has served democracy very well over a sustained period.

The stark news yesterday on the economic front was provided by the comments in the OECD report on the economic position of Ireland relative to other European countries. The Exchequer figures released this week show the tax take lags far behind projections and that the interest payment made in October was 107% higher than that paid 12 months previously. We face stark choices and considerable public unrest. For example, a march is planned for tomorrow.

The lack of decision making by the Government in the past 12 months has added significantly to public disquiet. The Government has not produced a competitiveness plan or announced any decisions on the recommendations made in the McCarthy report, for example, on reducing the number of quangos. This lack of serious decision making makes it difficult for members of the public to accept the decisions that will be needed in the budget.

On the issue of accountability of Ministers to this House, in recent days I have noted a welcome increase in the presence of Ministers in the Chamber. However, with regard to services for children and the information provided on such services, an issue I raised yesterday, it is clear that the comments made by the Minister of State with responsibility for children, Deputy Barry Andrews, on the provision of services were a fantasy. The report on the implementation of the Ryan report is a collection of words which is not backed by resources. The House must give serious consideration to this issue. Words do not mean anything; we need proper plans based on available resources. We must face the truth about what is being done in the area of children’s services.

We must also face the truth in regard to the H1N1 pandemic. I praised the Department earlier this year when I saw the work it was doing in preparation for this epidemic. I said it was keeping people informed and that it was doing its very best, as far as I could see at the time. However, the information which has emerged in the past few days on preparations in this country for roll-out of the vaccine seems to be completely at odds with what we were told here. For example, we were told yesterday that it would take eight months for the vaccine to be made available to the entire population. We are also told general practitioners were only informed of the situation in August and September. What kind of leadership is that if we have to protect people from this epidemic? I propose an amendment to the Order of Business that the Minister for Health and Children, Deputy Mary Harney, come to the House today to address these issues clearly and openly and give the detail which is necessary to reassure the public on this very serious threat.

Senator Joe O’Toole: To beat an old drum, I again make reference to the talks taking place in Government Buildings between the social partners, the Government and the various other groups involved. I made the point yesterday that, in terms of the way we were engaging with the matter, talk of strikes, actions, etc. was part of the essential choreography and stage direction of these events and that this was not the time to focus on such issues. We may need to examine them in a weeks’ time. We should look to the future.

It is strange that today the newspapers are carrying pages and pages of articles on the OECD report. It is strange when one refers to the imbalance. The day before yesterday the European Union gave its prognosis for the European economy for 2010 and 2011. It stated the Irish economy would not grow next year, whereas the European economy would, and that the fol-

lowing year the Irish growth rate would be twice that of the European economy, at some 2% as against 1%. We need to examine such reports because we need to give hope to the people.

Senator David Norris: Hear, hear.

Senator Joe O'Toole: We need to see what we will happen in the future.

Senator Fitzgerald mentioned "Morning Ireland". I had a spring in my step after listening to the programme this morning; I can only put it down to the fact that there was no economist on it for a full two hours.

Senator Maurice Cummins: Garret was on.

Senator Joe O'Toole: No; there was no economist wearing an economist's hat. I will come to Garret in a second. It is important to recognise that the trade unions, the Government, the Society of St. Vincent de Paul and everybody else needs to be informed of the reality of the situation. That is happening.

I heard no one in the past two or three weeks argue about the fact that savings of €4 billion were needed. I want to focus on what former Taoiseach Garret FitzGerald said this morning. I have made the point many times in the past two weeks that the Government is discussing a format which, to boil it down to simplicity, will involve doing something over a three year period, with no increase in personal taxation but with the introduction of other taxes. The trade union movement, the social partners and groups such as the Society of St. Vincent de Paul and others have said this policy is too harsh and that we should implement changes over a six year period and increase taxes. It is interesting that there is always a third way. I have been saying this here for weeks on end. It is interesting that this morning Garret FitzGerald came out with a third way, which involves maintaining the three year period to implement changes and also introducing additional taxes. Such a view is contrary to Fianna Fáil and Fine Gael policy but mirrors what the Minister for Finance, Deputy Brian Lenihan, said in introducing the budget.

I put the proposal before the House. There are ways to move forward. We need to give the people hope for the future. We need to say to workers, trade unionists and others that if they have to take the pain which might include salary cuts, we can do it over a period of time and that we will do what Deputy Richard Bruton said yesterday, that is, benchmark our way out of it or, as the Taoiseach said earlier this week, allow for bridging until we achieve the necessary savings, as they cannot come quickly enough. It is a matter of focusing on the possible solutions and making them work.

Senator Dominic Hannigan: I agree with other Senators. Yesterday's OECD report on the economy makes for interesting reading. The OECD is an organisation which three years ago stated house prices would level off or decline slightly. Last year it stated Irish banks were well capitalised and profitable. Therefore, we should not accept it as the oracle of all wisdom. Having said that, there are some very interesting points in the report which deserve further analysis and reflection. For instance, in the section on boosting competitiveness, it recognises the fact that education has produced great benefits for Irish society and suggests further investment is needed in pre-primary education and in-work training. The section on NAMA states temporary nationalisation of the banks should not be ruled out, a point my party has been making. In terms of participation in the labour force, the report notes we can increase female participation by removing a number of obstacles in the system.

On unemployment, key issues include the fact that it does not believe sufficient measures are being taken by the Government to encourage more people to leave the dole queues and return to work. We agree with this. Yesterday in the House my colleague, Senator Alex White,

[Senator Dominic Hannigan.]

warned about the spectre of the loss of a generation of young people to emigration because of unemployment levels in the country. The OECD is correct in this respect and we need to see greater efforts being made. The announcement this morning that the special task force on job creation which was set up by the Taoiseach in January has met just once is pathetic. At a time when hundreds of thousands of our people are out of work it is not good enough. I ask the Leader to relate this to the Taoiseach and make sure a greater effort is made in the area of job creation.

Senator Dan Boyle: We are in the midst of our daily economics debate as part of the Order of Business. There are regular requests for the opportunity to speak on economic matters. However, the debate needs to be properly framed. The selective quoting of reports to allow people to maintain their particular argument is not helpful to the wider debate. I welcome the OECD report and the EU report released the previous day which help in forming the wider picture. The OECD report outlines the nature of the fiscal problem we are facing and states it is being dealt with in the only way it can be — in the short and medium term. It will result in difficulties in our public services, a loss of public confidence, as well as public anger and disappointment at how we provide these services. To say it can be done differently over a longer time period does not serve the public interest. The debate we need to have has to be structured in that context. I look forward to next week's debate on the NAMA Bill when we can discuss the wider picture. If the House is to continue to be relevant, it has to maintain this debate and highlight its difficult nature over the next 18 months at least in the most honest context we can.

Senator Paudie Coffey: The public must have full confidence in the entire planning process in this country which depends on its integrity. I draw the attention of the House to the mission statement of An Bord Pleanála which states it carries out its work in an independent manner that embodies the public service ethos of integrity, impartiality and the desire to serve the public interest. I wish to raise a matter of grave concern to me and which should be of concern to others in the House. In a recent High Court case the behaviour of An Bord Pleanála in dealing with an appeal case in Kildare was found to be highly questionable and irregular. The court found that there were irregular procedures, that there was objective bias on behalf of An Bord Pleanála and that the decision making process was not impartial. The board's decisions were quashed, not on one occasion but two. I urge Members of the House to review both High Court judicial reviews in the case of *Usk and District Residents Association Limited v An Bord Pleanála and Ors*. In 2006 the High Court made recommendations to An Bord Pleanála which were blatantly ignored by the chairman and the board. It asked that they take legal advice to avoid a further judicial review. It is a very serious matter and I hope the Leader will take my query on board. It is estimated that more than €1.5 million of taxpayers' money was wasted in a second judicial review because the board ignored the first ruling. This leaves further questions to be answered. How many other similar cases have been dealt with by the board about which we will never know? What checks are made to ensure the board follows correct procedures? In the interests of integrity and on the basis of the evidence in this case, I call on the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, to set up an inquiry into how the board operates and to whom it is accountable.

Senator Jerry Buttimer: Hear, hear.

Senator Paudie Coffey: The position of the present chairman is untenable owing to his actions and his failure to follow correct procedures and listen to higher court recommendations. He should resign.

An Cathaoirleach: The chairman is not present to defend himself and when the Senator speaks about a particular organisation such as An Bord Pleanála, the chairperson would be identifiable. I do not want that.

Senator Maurice Cummins: He must be held accountable.

Senator Paudie Coffey: These people are not held accountable.

Senator Jim Walsh: Sometimes the debate on the Order of Business consists of soundbites on important national issues, such as the fiscal or banking position, and these can be unhelpful. I would like to see a full debate on the OECD report, which was quite interesting in its observations, the EU report and the previous IMF report. We should combine a number of those important reports and have a good, incisive debate in the House over quite a number of hours where people would have the opportunity to develop the points of view which they have.

The point which has emerged from all the reports is that while people may disagree with aspects of Government policy, the general thrust of what is being done is trying to correct the fiscal position over four to five years. That is a long period and extending it is not being advocated by any of those independent bodies or any independent economist. Unless we take appropriate action we will end up as we were in the 1980s when a generation of people had to emigrate and lost the realisation of their personal potential because of a lack of opportunities.

I ask for a debate on the issue of paedophilia. I know the issue has come up in the past with regard to institutional and clerical abuse but it is much wider in society. We have concentrated on a small minority with the problem. There are issues of awareness of risk and protection of children, and there are also issues surrounding what needs to be done to identify and treat people predisposed to paedophilia. We must have this debate in the interests of our children.

With regard to the points raised by Senator Coffey, we should have a debate on the matters relating to An Bord Pleanála. If the past couple of years have taught us anything, it is that we have not had sufficient political oversight and scrutiny of many of our public institutions. Where issues such as this arise, it is important for us to have a full debate, and where people are found to be deficient, pressure should be brought to bear to allow the necessary changes — including personnel changes — that would restore the integrity and effectiveness of those public bodies.

Senator David Norris: I support Senator Walsh as I take it he is calling for the debate we have been looking for on this side for a very long time on the Government's response to the Ryan report.

Senator Jim Walsh: No, the issue is much more than that.

Senator David Norris: We should get down to it so I strongly support the Senator in this matter. Yesterday, in the debate on the Criminal Procedure Bill, I asked the Minister questions about the children's detention centre. I did not anticipate that the issue would explode today with the publication of a Health Information and Quality Authority, HIQA, report into the centre for severely disturbed children in Ballydowd. Will the Leader get the Minister into the House to answer questions about this? It is astonishing that €30 million was spent nine years ago and yet the infrastructure has deteriorated to such a state that it is uninhabitable by these children.

Senator Coffey raised the question of planning and this is a case in which I took a great interest. We should be very grateful to *The Irish Times* for giving a full report of this case about planning, and it raises questions in this case as well. Apparently the planning authorities have allowed residential accommodation to develop which overlooks directly into the area and

[Senator David Norris.]

violates the privacy of these young people. There are insufficient staff and eight staff are involved in disciplinary procedures at the moment. Insufficient and inaccurate records are kept and some records have not been kept of serious incidents involving the children. Parents have not been informed and we do not know if the children will be moved.

As the Upper House, we have a duty to inquire about where these disturbed children will be sent and under what conditions they will be kept. Who is responsible for the bad management of this facility, in which €30 million of taxpayers' was invested nine years ago and, owing to lack of upkeep, it appears to be uninhabitable and bad for these already traumatised children? Will the Leader invite the Minister to the House to give Members answers on these important questions?

Senator Déirdre de Búrca: I raise the issue of the decision to be made shortly on the appointment of the first President of the European Council. The name of John Bruton, a former Taoiseach and leader of the Fine Gael Party, has been mentioned along with a number of others. He was one of the first people to be mentioned for the role. The reports in the newspapers today on the imminent gathering of the Heads of States and Governments to celebrate the 20th anniversary of the fall of the Berlin Wall suggest that at this meeting, the issue of selection will be discussed. Unfortunately, the possibility of John Bruton's selection is looking a little more remote now.

I suggest that anybody in this House, the Minister for Foreign Affairs and the Taoiseach do their best as this is a critical time, with no decision having yet been made. The position seems to be very fluid and different names are being mentioned every couple of days. The former Taoiseach has experience from the position he held in Washington DC and as a member of the presidium which formulated the convention on the future of Europe. For all these reasons he is particularly well qualified to be considered for the position.

As we discuss our economic future in the Chamber this morning, having an Irish person in that position as first President of the European Council would be a good sign for Ireland. It would show our influence at the highest reaches of the European institutions. I suggest that the Leader asks the Minister for Foreign Affairs, the Taoiseach and Deputy Kenny within the EPP to use their good offices to promote in the time remaining the candidacy of John Bruton.

The Eurobarometer results this morning from a survey after the Lisbon treaty referendum indicate that Irish people have once again displayed swing behaviour in their attitudes to the European Union. The results of the Eurobarometer survey suggest there was a last-minute swing towards supporting the Lisbon treaty, and people's concerns about the Irish economy seem to have fed into their willingness to support the treaty. There is a fundamental ambivalence about the direction of the European Union and pace of integration and the results of the Eurobarometer survey show this. We must help Irish people connect to a much greater extent with the European project and for that reason, the conversations we are having about our own reform mean we must look to a greater extent at covering European issues.

An Cathaoirleach: The Senator's point has been made. I call Senator Donohoe.

Senator Déirdre de Búrca: I would like to ask——

An Cathaoirleach: The Senator's time is up.

Senator Déirdre de Búrca: ——that some of the suggestions made arising from a special sub-committee of which I was a member last November and December would be looked at again

as part of the process of Seanad reform. That involved a scrutiny reserve system of European legislation.

An Cathaoirleach: The Senator may raise that on another morning. I call Senator Donohoe.

Senator Déirdre de Búrca: A number of appointed Senators should have expertise in European affairs and so on.

An Cathaoirleach: Please, the Chair has asked the Senator to resume her seat.

Senator Paschal Donohoe: I second the amendment to the Order of Business from Senator Fitzgerald and support other speakers' call for a debate on the OECD report. Senator Boyle is correct in that we should have a debate about the report in its entirety and the Seanad is a good place to have it.

I will make two points on the matter. The biggest contribution our country can make in dealing with the crisis in our national finances is to create more jobs. The more of these we have, the more tax revenue will be created and the more confident people will be in spending the money they have in their bank accounts. The biggest contribution that can be made to closing the €4 billion gap this year, next year and the year after that is to get people back to work.

Senator Hannigan indicated that the national jobs council has only met once this year, which is more than pathetic — it is a disgrace.

Senator Joe O'Toole: Absolutely. Hear, hear.

Senator Paschal Donohoe: It is a national disgrace.

Senator Maurice Cummins: Hear, hear.

Senator Paschal Donohoe: It is the number one priority our country faces. This body was unveiled with great fanfare but has met only once this year.

I emphasise the point I made yesterday. Our country has a choice. We can maintain wages at the present level and have fewer jobs or we can decide that wages will decrease for a while, hang onto the jobs we have and create the platform to make more jobs in the future. The biggest contribution Government can make towards that is to offer a relentless focus on competitiveness, as Senator Fitzgerald noted. We must make things cheap in our country again to square that circle of falling wages. There must be cheaper professional and Government services and cheaper land and housing. That is how we will square this circle and get our country back to the prosperity it so desperately needs.

Senator Labhrás Ó Murchú: Senator Coffey has done a service to this House by his contribution regarding the planning code and its operation, transparency or otherwise. During the planning legislation debate I raised some of the same matters regarding An Bord Pleanála. I do not make specific criticisms but we have placed power in the hands of a very small number of people. That power impacts, not only on the environment but on individuals' rights and livelihoods and on communities and society in general. It is absolutely vital there should be transparency. The more I listen to people on the ground the more I realise a perception exists of considerable contradiction in some of the planning decisions handed down from time to time. This is not acceptable. Not only must we have a planning code which is beyond question in itself and its operation but it must also be clear to the public that decisions made are for the general good. This is particularly so in cases where legal judgments are handed down. It is imperative for anybody who has been involved in or at the receiving end of a legal judgment

[Senator Labhrás Ó Murchú.]

to ensure that what is required is implemented and the public is made aware of whatever action was taken. If we do not do this there will be no faith whatsoever in the code as it now applies.

During the Celtic tiger days there was enormous development in most areas. We have seen small villages develop beyond recognition. A way of life changed. We have seen the traditional values of planning that apply to Ireland not recognised. Some decisions that emerge are perhaps more appropriate to the planning code in Britain and other countries. We must discover behind this the number of planners who have been trained outside the country. There is nothing wrong with that. A number of non-nationals are involved and there is nothing wrong with that. However, what is important is that in addition to their academic training they should be made aware also of the traditional values of society and communities with regard to building and the expansion of communities. That also must be borne in mind.

Senator Brendan Ryan: I raise a matter that was discussed on “Liveline” yesterday, on which I, as Labour Party spokesperson on consumer affairs, have been working for some time. It is November and with Christmas approaching people are considering gift possibilities. I do not include myself as I am very much a last-minute kind of person. Rather than choosing a gift people may decide to purchase gift vouchers for a friend, family member or colleague. In many cases such gift vouchers come with a latest date for redemption clause which is often as short as three to six months, most often the latter. There is no reason for an expiry date for gift vouchers. There is nothing perishable about them and they offer no risk to human health or well-being as they are usually made of paper or cardboard. Many jurisdictions have moved to change the law to outlaw such practices. There has been an amount of discussion about this over time, most recently on Joe Duffy’s radio programme yesterday.

Coincidentally, on Tuesday I tabled a Consumer Protection (Gift Vouchers) Bill 2009 at my parliamentary party meeting for approval, which it received. It is listed as No. 22 on the Seanad Order Paper today. It is a short Bill, the net effect of which would be that all vouchers will remain valid for five years following its passing. It would be an offence to sell a gift voucher with an expiry date of less than five years. I propose an amendment to today’s Order of Business to allow my Bill be raised and therefore I propose that No. 22 be taken before No. 1. I ask the Leader to accept that proposal.

Senator Mary M. White: I welcome the publication of the Health Information and Quality Authority’s national children in care inspection report 2008. As spokesperson on children for this side of the House, I have raised the issue of children in care many times. Currently, there are 5,500 children in the care of the State of whom some 4,900 are in foster care. In a survey done in the Dublin south-west region the HIQA report indicated that two thirds of children in care have foster parents, both relatives and non-relatives, who have not been vetted with regard to acceptability of their qualifications and suitability for the job.

Our country has been traumatised already by the Ryan report. Some 30,000 people have been left physically and emotionally devastated as a result of cruelty while they were in the care of the State. In our attitude to this one would think Ireland was Haiti, a country I visited earlier this year. The foster carers of 4,900 children, whether relatives or non-relatives, are not being vetted or deemed appropriate. They get paid for the job they do. I do not cast aspersions on those who kindly foster children but it is wrong not to vet them for suitability. Senator Walsh raised the issue of child abuse and paedophilia. I believe we have not yet scratched the surface of that. I call for us to come back to this matter urgently and ensure the HSE carries out the regulations it is supposed to but does not.

Senator Jerry Buttimer: I join Senator Coffey in asking the Leader for a debate on An Bord Pleanála. I have been involved with residents in many appeals against Cork City Council and County Council that went to An Bord Pleanála. Senator Coffey is right. We must have confidence in the planning process and when that process does not seem to be objective, seems biased or partial question marks pertain. I have serious reservations about the role of An Bord Pleanála. How can it be that if a Bord Pleanála inspector makes a ruling, be it yea or nay, the board of that body can overturn it? I cannot get an answer. Perhaps the Minister for the Environment, Heritage and Local Government, Deputy Gormley, might give the answer.

We must have full confidence in the planning process. Unfortunately, in many communities, urban and rural, confidence in An Bord Pleanála and the planning process *per se* is at an all-time low. It must be restored. We criticised councillors and councils for their role but they were accountable and answerable. An Bord Pleanála is not answerable to anybody and it should be. The House must invite the Minister to discuss this as a matter of urgency. If necessary, as Senator Bacik suggested, let us bring the officers of An Bord Pleanála to this Chamber. That would make us more relevant to ordinary people. Every week of the year each one of us receives representations regarding the planning process.

We need a debate on job creation. The presence of the Minister for Enterprise, Trade and Employment, Deputy Coughlan, has been sadly lacking from this Chamber regarding discussion on job creation and retention. Hundreds of thousands of people are unemployed. People are starved of hope by the Government. They want to see a job policy. As Senator Donohoe stated, there is a National Jobs Council which is a folly and a complete joke. Perhaps we might put those two issues on the agenda over the coming weeks because they are of grave importance.

Senator John Hanafin: I share the calls for a rolling debate on the economy and job creation. I am conscious that, in the case of the latter, it is not a question of us not having a certain amount of knowledge. We went through all of this in the 1980s. We could have a structured debate system in which, in or around this time, we could discuss buying Irish products for Christmas and ask the media to be present so they could do something positive in reporting this Chamber. This would encourage people to buy Irish and let them know the benefits of doing so, including job retention and creation.

Now that the property market has come back significantly, it is time to change from our system of tax breaks. Section 23 reliefs, interest reliefs, section 48 seaside resort reliefs and living over the shop allowances should be transferred to job creation initiatives. We have systems in place to do so. As we have the template, we should reintroduce what we did in the 1980s to restart job creation.

Senator Eoghan Harris: It is approximately two years since the House, the political class and the public became aware that we were in the equivalent of a long war, an economic crisis of a magnitude not previously seen. The other night, I was watching Brendan Gleeson's powerful portrayal of Winston Churchill. Thankfully, the cringe factor of someone needing to apologise for an Irish actor playing Churchill was avoided.

I was first struck by the way Churchill brought Clement Attlee into the war cabinet. The Tories were not the toughest members of that cabinet. Rather, the three Labour Party members fought the war to a tough and final conclusion. I was also struck by the cabinet's bipartisan approach and the way in which the war was democratically debated by the House of Commons. A Labour-Tory Government did the difficult stuff and the Parliament was allowed a rolling debate on the war as it continued. We would do well to consider something similar.

Senators: Hear, hear.

Senator Eoghan Harris: The long debates on NAMA are not helping confidence. A tripartisan approach to the economic crisis would be better for democracy. A cross-party group or committee could be set up to make the difficult decisions, such as on public sector pay, whether more people should be brought into the tax net and what will be done about social welfare. The Parliament could be allowed to act as watchdog on that cross-party support.

I am one of those who believes the truth sets people free. The public is always ahead of politicians. It knows how bad things are and is not interested in the gassy speculations of economists whose egos are deeply involved in selling books or predicting the future. One cannot predict the future. People know that all we can do is buckle down, as the British did during the Second World War. The Irish are ready to buckle down and do the difficult things and it is time the political class caught up with them and buckled down in the same way via a cross-party approach to the crisis.

Senator Liam Twomey: Not only would Deputy Kenny, as vice president of the European People's Party, EPP, and Fine Gael, as a member of the EPP, support John Bruton as the next President of the European Commission, but we will do everything we can to support the case of Ireland and every Irish person in the European project as we have done since joining the EU. We will continue to give our support to the Government on behalf of everyone who is doing good work for this country in Europe.

Regarding the economy, the Government's approach to politics will not change dramatically, but it must learn that it cannot waffle its way out of a recession. The Government is long on talk, but short on action. This has been the case for the past two years. If the House is to hold debates, Ministers should attend to tell us what they have done to sort out this crisis. Using Private Members' motions, perhaps the Fianna Fáil and Green parties could outline to the House the positive steps taken by the Government in recent years to remove us from the crisis that it walked us into during the past decade. Instead of debates on the seabed, which were admittedly useful, we could have serious debates on the economy through the Government parties' Private Members' time.

Senator Jerry Buttimer: Hear, hear.

Senator Liam Twomey: Yesterday and last week, I stated in the House that the Government's handling of the swine flu pandemic, a serious public health issue, was poor and that the HSE did not seem to have the crisis under control. I was ignored by the Government side and criticised by some of its Members who believe the HSE is doing a great job. However, I have a supporter, none other than the Minister for Health and Children who we want to bring to the House. She has clearly admitted that the swine flu pandemic is not under control. She referred to getting it under control in eight months time, but it will be all over by then. People will not need to be vaccinated next June because swine flu will have done its damage by then. It will peak in Ireland sometime around Christmas Day and early January, not next June. We have four to five weeks to get the pandemic under control. Otherwise, people will die, hospitals will be strained and swine flu will run rampant across society. I again ask the Leader for an urgent debate on swine flu and to arrange for the Minister to attend the House to explain to us and the people why she has failed to deal with this pandemic, even though we have known this crisis was coming since last June.

Senator Ivana Bacik: I second Senator Ryan's request to the Leader to take No. 22 first, the Bill on consumer protection and gift vouchers. It is long overdue, as research has shown that a majority of gift vouchers are never redeemed because of the time limits. This is an important principle.

I ask the Leader for a debate on women's participation in politics. Members will be aware that at 11.30 a.m. I will be launching the report of the Sub-Committee on Women's Participation in Politics, to which I am rapporteur and of which Senator McDonald is a member. Deputy Kenneally chaired the sub-committee. Our findings and recommendations have received overwhelming cross-party support and been adopted by the Joint Committee on Justice, Equality, Defence and Women's Rights, which has already requested that the report's findings be debated in both Houses. I ask the Leader for an early date for that debate.

Regarding gender equality, I would like to add my voice to the request for a debate on the fallout from the Supreme Court ruling in the Portmarnock Golf Club case. There was strong dissent in the Supreme Court and Mr. Justice Nial Fennelly suggested that it was preposterous, unreasonable and implausible to claim that Portmarnock Golf Club was catering primarily for the needs of men rather than the purpose of playing golf. This sums up the objection that I and many others have to the ruling. The idea that the club was for men and not golf was the crux of the case. It is clearly incumbent on us as legislators to debate what needs to be done to ensure the principle of equality is vindicated and that clubs like Portmarnock will no longer be able to discriminate in this fashion. We need an urgent debate on how best to amend the legislation to resolve this issue.

Senator Eugene Regan: Senator Harris referred to the House's protracted debate on NAMA. The criticism is misplaced. As the OECD survey of the economy shows, we have a chronic problem. The survey confirms all of our worst fears about the state of the economy. However, it highlights the Government's inaction on this crisis. The debate on the NAMA legislation was deemed "protracted", but it was only recently introduced in the Dáil and will not be introduced in this House until next week. The debate on NAMA has not been protracted and it has helped to improve the Bill and show up particular shortfalls in the legislation. Statements about protracted debates on legislation are anti-democratic. The country has a problem, but we need proper parliamentary scrutiny of whatever legislation passes through the Houses.

I wish to refer to the matter of An Bord Pleanála as raised by Senator Coffey. A High Court judge, Mr. Justice Peter Kelly, upheld a judicial review of a decision by An Bord Pleanála and recommended that the matter be reheard by different members of the board. He specified this in order to avoid further judicial reviews of the case. That advice was not followed and it was on that point and others that Judge McMenamin found unfathomable the logic of the board in how it proceeded. Judge McMenamin's second decision against the board has not been appealed by it and yet the chairman of the board can criticise that decision. There is something fundamentally wrong with that attitude, in particular when the Judiciary has found the board to be in default. I support Senator Coffey's call for the board to get its house in order.

Senator Ivor Callely: Yesterday I listened with interest to Senators express their views. There was a certain concern about the negativity from various quarters, in particular the media. I refer to the view expressed on the national airwaves. I cannot understand why RTE always feels it must have balance.

We should remain positive given the very difficult and challenging times ahead. Senator Harris said this is not necessarily a party political issue and that it warrants unity of purpose, which I wholeheartedly support. We must not underestimate, challenge or overstate our difficulties. What we must do together is address these issues. We must remain positive in respect of the challenges we face.

I would also like to compliment our national broadcaster——

An Cathaoirleach: A question for the Leader.

Senator Ivor Callely: —in particular in regard to its programme on the Berlin Wall which Tony Connolly presented last night. He gave a particular perspective on the Hungarian issue which warrants acknowledgement.

I refer to Senator Regan's comments on what Senator Harris said. This country recognised it faced serious difficulties in 2007 and in 2008 we recognised there was a need to resolve them.

An Cathaoirleach: A question for the Leader.

Senator Ivor Callely: We are now in the last quarter of 2009 and we have had protracted debate on associated issues. People now want us to get on with the job, to deal with the difficulties, to get the banks——

(Interruptions).

Senator Ivor Callely: ——to provide credit and to engage in job creation.

Senator Liam Twomey: The people wanted the Government to get on with it for the past two years. It has been asleep on the job.

Senator Frances Fitzgerald: It has been sleepwalking.

Senator Rónán Mullen: I propose an amendment to the Order of Business that before No. 1, we take No. 34, motion No. 26. This motion, which was seconded by Senator Quinn, calls for a debate on the proposed day of action and the proposed strike. From time to time as we meet different groups, we speak about the needs of the most vulnerable members of society. We cannot have it both ways. We cannot have sectoral interests insist their rights and privileges are not interfered with while at the same time hope that the Society of St. Vincent de Paul and other groups doing important work in our society are not frustrated at budget time. This is a time for unity and solidarity and for letting the Government govern and legislators debate the merits of various proposals. Strikes will force the hand in favour of particular sectoral interests to the detriment of vulnerable members of society. I hope the Leader will accept this amendment to the Order of Business.

Senator Harris spoke about the need for a bipartisan and a tri-partisan approach. We could achieve a quadra-partisan approach with the Government, Fine Gael, the Labour Party and, I hope, the Independents supporting this motion.

Senator Nicky McFadden: I support what Senators Harris and Mullen said and, to some extent, what Senator Regan said. Last night I tabled a motion in Private Members' time in regard to indebtedness and called for cross-party support. The motion was very broad and covered many areas. I hasten to add it was the most non-political motion ever placed on the Order Paper. There were very few Fianna Fáil Senators present for the debate.

An Cathaoirleach: Who was or was not present is not relevant.

Senator Nicky McFadden: It is very relevant. The motion, which was very serious, was treated with disdain. Senator Boyle wanted it put on the record that the revised programme for Government wanted to regulate those trying to get money from unfortunate people and said there must be legislation to regulate these people. He then left the House.

An Cathaoirleach: The Senator should not comment on anyone's presence and on whether a Senator leaves the House.

Senator Nicky McFadden: I feel very strongly about this because there must be cross-party support for getting people back to work and for job creation.

The Government amendment to my motion stated how fantastic the Government was and what a great job it had done and yet the country is going down the tubes. I feel very strongly about the way this House is run. The Minister of State responded by saying that Fine Gael supported the Government amendment, which I found insulting.

We must find ways to help unfortunate people achieve resolutions for their debts without having to go to court. I made a very straightforward request but not one Senator opposite or the Minister of State took it up.

I also spoke about the penalties people must endure if they try to get out of fixed rate mortgages but no Senator picked up that point. Senator Ryan has raised that issue on numerous occasions. This is what Senator Harris spoke about. We need collective responsibility in this House for the people who are losing their jobs.

Senator Feargal Quinn: A number of Senators referred to “Morning Ireland” celebrating its 25th anniversary. I took three messages from that programme. The first was how bad things were in 1984 and yet we got out of it. The second was in regard to some of those who criticise some of the established offices in this State, including the Seanad and the Office of the President, which is often thought not useful.

I thought our President played a blinder today and used words which established confidence and were positive. She said she was taking a pay cut and was doing something. She said that under the Constitution her expenses could not be reduced but that she would not spend all the money allocated. The example she set was one of which we should be very proud. It was a reminder of the strength of that office. She established hope, and the word “hope” was used by Senator O’Toole today.

We must do more than hope. We must work together to avoid confrontation which is why I support Senator Mullen’s amendment to the Order of Business. We should debate No. 34, motion No. 26, and discourage confrontation and encourage working together to achieve what we must achieve. I support the call for a debate on that motion before No. 1.

Senator Paul Bradford: I support Senator Boyle’s comments that we are having our daily dose of economic debate and analysis. It is time we moved on from analysis to a prescribed solution. Unfortunately, all of us seem unwilling to begin to address the economic reality. Nothing is more removed from the economic reality than the proposed day of action and the proposed strike. Therefore, I very much support Senator Mullen’s call that we urgently debate No. 34, motion 26, so Senators can outline their views on the grave damage which would be inflicted on this country by so-called days of action and strikes. Most of us have been alive and in politics long enough to know that this economic lunacy which was prescribed in the 1970s and 1980s in both Ireland and Britain created no solutions but rather economic ruin. We do not want to visit it on the people again. We must talk in blunt terms and move beyond the glib debate to start discussing economic truths and reality.

It is almost two years since Senator Harris became the first Member of the Oireachtas to analyse the problems of public sector reform. This was not an attack by the Senator or anyone else on public servants but was simply a method of outlining the economic crisis and indicating that the public sector needed to be reformed urgently. The public sector is funded by taxpayers, by every citizen of the State. It has gone over the top with regard to expenses and we need to start prescribing solutions.

[Senator Paul Bradford.]

I refer to Senator Hannigan's comments about the national jobs council not having held meetings. I concede my ignorance in that I have never heard of the council. The Cabinet and the Government should act as a national jobs council; therefore, I am not concerned whether the council has met, as it is another body, another quango. The Cabinet and the political system need to be our national jobs council. The House needs to be proactive in this regard.

I appeal to the Leader to take motion No. 34. We will be remiss in our duty as elected Members of the Oireachtas if we are not willing to speak clearly on so-called days of action and national strikes. I call them days of ruination.

Senator Shane Ross: I endorse everything Senator Bradford said and support the amendment to the Order of Business proposed by Senators Mullen and Quinn.

The House has a serious responsibility which we continuously funk, which is to make immediate decisions on matters which are relevant. We are always discussing and condemning after the event. We have an opportunity to give a certain amount of leadership and express a view that what will happen tomorrow will send a very serious message, particularly if there is an escalation and further strikes. We have a big problem with our credit rating. I do not know whether people realise this but Ireland's credit rating was downgraded again yesterday. International investors will see our credit rating going down one day and protests on the streets the next. This will damage our reputation and the economy. We have an opportunity in the House to stand up and say we do not wish this to happen and at least test whether this is a House of influence. If the Government funk discussion of this motion today, it will continue the public perception that this is not a particularly relevant body. This is an emergency and we cannot just sit back. We should be taking action and giving leadership. We should be warning that this action will damage Ireland, as will another day of protest. Anyone who doubts this need only wait because if we continue to indulge this irresponsible behaviour on the part of trade unions, we will have the International Monetary Fund coming in. This is a much closer reality than people here are prepared to acknowledge. We are very close to it. If we do not take a stand, if we do not show the world we are prepared to stand up to the unions, then, God help us, we will have an international body take over. If that is what we want, then we should not debate the motion but if we want to show we are in charge, let the House debate it today.

An Cathaoirleach: Three Members are still indicating but time is practically up. I ask speakers to be brief.

Senator Paddy Burke: I support Senator Coffey's case on An Bord Pleanála. I have raised the issue of An Bord Pleanála on several occasions in the House and asked why inspectors' decisions have been overturned without any reasons being given.

It is stated in the *Irish Independent* today, "For God's sake, somebody do something". On previous occasions I have asked for a debate on tourism because such a debate is needed. It is a sector in which jobs can be created. Other governments, including the Spanish Government, have taken action. I ask for a debate on what can be done in 2010.

Senator Michael McCarthy: I thank the Cathaoirleach for his indulgence. I will be supporting tomorrow's national protest at Government decisions. We did not stand up to the banks or the corporate capitalist monsters who brought us to the brink of economic collapse, yet we stand up to the garda, the nurse, the teacher and the worker who is now paying a pension levy, an income levy and a health levy to fund our way out of the recession. We will stand up to them but will not stand up to the people who caused the economy to collapse.

I refer to the headline in the *Irish Examiner* this week which caught my attention: “Judge orders repossession of record number of homes”. In another case of a young couple in County Cavan the headline reads, “They hound us. They want €1,300 a month”. This is a young family with three children and in which one parent has become unemployed. They are unable to repay the mortgage at the same level but have had to tell their children they will be unable to buy toys this Christmas, yet we have this nonsense. A motion has been tabled with the date Friday, 4 November. Tomorrow is not 4 November and there is not a scheduled day of strike action on 24 November. When our learned colleagues are tabling motions for discussion in the House, they should at least be accurate in their attempts to muzzle the trade unions and workers and to subvert democracy.

Senator Ciaran Cannon: I did not intend to speak this morning on the Order of Business until I heard Senator Hanafin make the same hypocritical and cynical call for patriotism which his colleagues have been making for the past few months. It started with the Minister for Finance, Deputy Brian Lenihan, during his Budget Statement who was followed by the Tánaiste, Deputy Mary Coughlan, last week. They have been calling on hard-pressed families to voluntarily subject themselves to a higher tax regime by not travelling to the North to buy groceries. The Government was elected to govern. The mistakes made in the past six months have not been made by families but rather by a Government which imposed a VAT rate and acknowledged in March that this was a significant mistake. It has refused to address the very high costs associated with doing business. We now have the third highest energy costs in Europe. I ask the Government to cease from asking the people to rectify its mistakes and to begin to do what it was elected to do, that is, to govern.

Senator Donie Cassidy: Senators Fitzgerald, O’Toole, Hannigan, Boyle, Walsh, O’Donovan, Twomey, Regan, Callely, Quinn, Bradford and Ross expressed various views and concerns on the Order of Business. I join Senators in congratulating “Morning Ireland” on 25 years of excellent broadcasting. I congratulate, in particular, those pioneers David Hanley and David Davin-Power who helped to launch the programme. I also congratulate Tomás Sabhaois, Tom Savage, who reviewed the newspapers every morning and, as David Hanley said this morning, made a significant contribution. I congratulate all those currently involved in the programme. It was refreshing to hear the Taoiseach and former Taoiseach Dr. Garret FitzGerald discuss the problems that have had to be faced in the past 25 years. They have both advised that the current crisis must be addressed immediately. When asked what he would have done differently, Dr. FitzGerald replied he would have taken action earlier. I remember the time when David Hanley interviewed me about what action we planned to take on insurance reform. The people came in behind us on what could be done to lower the high insurance premiums being charged at the time.

I refer to the points raised about the OECD, McCarthy and Commission on Taxation reports. They can all be raised in the House next week when we will sit for 55 hours over three days to deal with the NAMA Bill.

With regard to the swine flu epidemic, the Minister for Health and Children is about to finalise a date on which she will come to the House. She will be out of the country next week. I understand there will be a press release placed in our pigeon holes after the Order of Business this morning on a briefing for Members on the up-to-date position next Tuesday.

Senators O’Toole and Boyle referred to the partnership talks. I agree with all the sentiments expressed and will pass on their views to the Minister. Senators Coffey, Walsh, Ó Murchú, Buttimer, Regan and Burke referred to the plight of An Bord Pleanála. The word “trust” has

[Senator Donie Cassidy.]

been used here this morning. There have been some excellent contributions on this topic and of course we will have a debate on the fall out and aspects of the court decision as soon as possible before the Christmas recess. Senators Walsh and Norris called for a debate on paedophilia and I have no difficulty leaving aside time for this. Senators Norris and Mary White referred to the children's detention centre and I will pass the strong views of the Senators to the Minister. Senators de Búrca and Twomey referred to the possible appointment of John Bruton. He would be an excellent choice. He has served this country well and he has served Europe well in Washington and we all join in wishing him well. It will not be for the want of trying on the part of the Taoiseach and the Minister for Foreign Affairs. Everyone well connected in Europe will do everything they can to have John Bruton seriously considered and, hopefully, appointed. He would be an excellent person to represent Europe anywhere in the world and we could be very proud of him as the person in that role.

Senator Ryan proposed an amendment to the Order of Business. I accept the amendment to No. 22 and I agree to take the matter after the Order of Business. Senators Buttimer and Hanafin referred to job creation and the matter can be covered next week in the NAMA debate. Senators Harris, Regan and Callely expressed various strong views which they outlined and placed before the House for consideration. The matters to which they referred can be taken before the debate on NAMA next week. I will hold a pre-budget debate and I will endeavour to get time and to arrange this with the leaders at our weekly meetings. All of these issues can be made known to the Ministers, including the Minister for Finance, in the House in the coming two weeks.

Senator Bacik referred to the report on women's participation in politics. I congratulate her and everyone involved. The more women we can get involved in politics, the better it will be for society. Senator Mullen referred to No. 34, motion No. 26, and called for a debate on this matter. The NAMA debate will be before the House next week and the following week we will have the budget. We will afford every opportunity to debate the matter, although I did not know this was coming about here today.

Senator Rónán Mullen: I sent the Leader and e-mail.

Senator Donie Cassidy: If I did I am sorry. That may be the case. I did not get it.

Senator Rónán Mullen: It is not even in the Leader's pigeon hole. It is on his computer.

Senator Donie Cassidy: I stress to the Independent Members the need to bring such matters to the attention of their leader, Senator O'Toole, who discusses business with me every Tuesday. We must have some order in this regard. The leaders' meeting every Tuesday works very well. I trust every Senator believes they have a say and an input on the Order of Business every week. As Leader of the House I have done everything possible every day on the Order of Business to facilitate every Member, including Senator Mullen.

Senator Rónán Mullen: I thank the Senator.

Senator Donie Cassidy: I refer to Senator Burke's comments. I gave a commitment that I would hold a debate on tourism. This will take place before Christmas because it is one of the planks on which we can create jobs. Tourism is creating jobs and keeping them going at present.

Senator Joe O'Toole: On a point of order, I inform the House that Senator Mullen's motion was not born until after the leaders' meeting on Tuesday.

Senator Donie Cassidy: That proves my point even more.

An Cathaoirleach: There are three amendments to the Order of Business and I will deal with them in the order in which they were proposed. Senator Frances Fitzgerald has proposed amendment No. 1 to the Order of Business: “That a debate with the Minister for Health and Children on the H1N1 influenza vaccine be taken today.” Is the amendment being pressed?

Senator Frances Fitzgerald: Yes.

Amendment put.

The Seanad divided: Tá, 22; Níl, 26.

Tá

Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.

McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Glynn, Camillus.
Hanafin, John.
Harris, Eoghan.
Keaveney, Cecilia.

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

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

Amendment declared lost.

An Cathaoirleach: Senator Ryan has proposed amendment No. 2 to the Order of Business: “That No. 22 be taken before No. 1.” The Leader has indicated he is prepared to accept this amendment. Is the amendment agreed? Agreed.

Senator Mullen has proposed amendment No. 3 to the Order of Business: “That No. 34, motion No. 26, be taken before No. 1.” Is the amendment being pressed?

Senator Rónán Mullen: Tá sé.

Amendment put.

The Seanad divided: Tá, 19; Níl, 29.

Tá

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

McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Twomey, Liam.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Glynn, Camillus.
Hanafin, John.
Hannigan, Dominic.
Keaveney, Cecilia.
Leyden, Terry.
MacSharry, Marc.

McCarthy, Michael.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Malley, Fiona.
O'Sullivan, Ned.
O'Toole, Joe.
Ormonde, Ann.
Phelan, Kieran.
Ryan, Brendan.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Rónán Mullen and Shane Ross; Níl, Senators Diarmuid Wilson and Déirdre de Búrca.

Amendment declared lost.

Senator Donie Cassidy: I wish to propose an amendment to the Order of Business because it has gone so late and the Minister will have only 40 minutes in the House. I propose that statements on education and training responses to the economic downturn will conclude at 1.30 p.m. instead of 1 p.m., that the Minister will be called to make concluding comments at 1.20 p.m., that we will have a sos from 1.30 p.m. to 2 p.m., and that No.2, the Courts and Court Officers Bill — Second Stage will be taken at 2 p.m.

An Cathaoirleach: Is that agreed? Agreed.

Order of Business, as amended, agreed to.

Consumer Protection (Gift Vouchers) Bill 2009: First Stage.

Senator Brendan Ryan: I move:

That leave be given to introduce a Bill entitled an Act to amend the Consumer Protection Act 2007.

Question put and agreed to.

An Cathaoirleach: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Senator Brendan Ryan: I move: “That the Bill be taken in Private Members’ time.”

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

Senator Brendan Ryan: On Wednesday, 11 November.

Question put and agreed to.

Education and Training Responses to the Economic Downturn: Statements.

Minister of State at the Department of Education and Science (Deputy Seán Haughey): I very much welcome this opportunity to address the House and discuss education and training responses to the economic downturn. It is very clear to us all that as a result of global economic upheaval we are facing immense challenges not just as an economy, but as a society and a country. This is because we are not just experiencing a deep economic recession, we are also contending with a fiscal crisis. While difficult and painful decisions were made in the supplementary budget in April, the scale of the crisis in the public finances means that we face a very difficult budget for 2010 and for the coming years until the fiscal crisis is resolved. However, the Government is committed to taking the necessary difficult decisions to ensure the economy overcomes the present challenges and is placed on a secure and more sustainable footing.

12 o'clock
Education and training is of fundamental importance, not only in responding to immediate challenges but to securing our country’s long-term future. In addressing the economic downturn, one of the most significant issues is the rise in unemployment and to deal with this we must try to protect those jobs that we already have. We must also work to create and attract new jobs and we must have a clear vision of where we see the jobs of tomorrow. Education and training are key parts of the Government’s strategy to protect, create and develop jobs.

Last year, the Government published Building Ireland’s Smart Economy — A Framework for Sustainable Economic Renewal. That blueprint focused on key areas for action in securing our enterprise economy, promoting competitiveness and establishing Ireland as an innovation hub. Our ambitions for Ireland’s smart economy and smart society will only be realised through the vision, originality, creativity and invention of our people. Education and training, and its relevance to the needs of individuals and employers will be key in this regard.

Skills are the engine room of the modern knowledge-based economy. Supporting citizens to develop the knowledge, skills and competences they need to be active and successful participants in the smart society is a central objective of the entire education and training system. The national skills strategy articulates this vision and sets out clear long-term objectives as to what Ireland’s education and training system needs to deliver if we are to develop competitive advantage in the areas of skills, education and training. As the Minister of State with responsibility for lifelong learning in the Departments of Education and Science and Enterprise, Trade and Employment, I can readily attest to the importance of upskilling and reskilling, especially in these difficult economic times.

The Government is adopting a strategic approach in its education and training responses to the economic downturn, focusing on activation measures to keep people from becoming unemployed and to get people off the live register and back into employment as quickly as possible. The Department of Education and Science works closely with the Departments of Enterprise, Trade and Employment and Social and Family Affairs on adopting an integrated approach to activation. A range of measures have been produced to expand services to the unemployed and promote a flexible learning environment tailored to the specific needs of the individual.

[Deputy Seán Haughey.]

While there were difficult decisions to be made in the April budget, the Government also provided for more than 23,000 additional education and training places. Through the Department of Enterprise, Trade and Employment, we provided 400 additional community employment places; almost 14,000 ten and 20-week occupation-specific training courses to enable people to get accreditation at levels 4, 5 or 6; 2,000 additional places on the work experience scheme; and more than 270 places on a pilot scheme which enables people on reduced working hours to learn new skills. In the further education sector, 1,500 additional post-leaving certificate places were allocated to vocational education committees and providers for this academic year, bringing the total available nationwide to 31,688. PLC courses enable school leavers and adults returning to education to enhance their employability with a range of vocational skills.

Many people who are now unemployed may have excellent workforce skills but because they have been a long time out of the formal education system, they may not have the standard entry qualifications for higher education. Therefore a range of initiatives, aimed at supporting people to access upskilling in the higher education sector, have been introduced this year. More than 6,000 additional third level places have been provided specifically for unemployed people during the course of this year, primarily in the institutes of technology. Demonstrating considerable flexibility and innovation in using the capacity within the system, the institutes are providing courses that are not tied to the traditional academic year and courses of shorter duration. They are also significantly increasing opportunities for part-time study which enables unemployed people to upskill while continuing to seek employment.

It is open to unemployed people to apply for places on full-time higher education programmes. More than 12,000 applications were received from mature students for full-time higher education programmes this year, an increase of 30% on 2008. The Department of Education and Science is working with the Higher Education Authority to support the expansion of opportunities for flexible learning in higher education institutions.

Dedicated funds allocated on a competitive basis through the strategic innovation fund are assisting institutions to look at new approaches to teaching and learning, including interactive e-learning and distance learning. Examples of projects being funded include the supported flexible learning project at the institutes of technology, the successful implementation of which will result in the use of supported flexible learning across the institutes. In September the Minister for Education and Science launched a new flexible learning portal, *bluebrick.ie*, which allows a prospective learner to search, compare and apply for flexible learning courses in the institutes of technology. Another project is the roadmap for employer-academic partnership project at Cork Institute of Technology, which will identify learning needs within workplaces, draw up a comprehensive plan for partnership between employers and higher education institutes, and offer a single simple, relevant and inclusive framework to facilitate interaction with the workplace.

In further education overall, after a period of expansion, the challenge is now to consolidate investment to maintain long-term sustainability. Between 1997 and 2008 expenditure on this area increased by over 400% to €414 million, enabling more than 170,000 learners to access further education learning opportunities in 2008, an increase of 125,000 on 1997. Further education plays a key role by providing access, transfer and progression opportunities for the lower skilled, the disadvantaged and the hard-to-reach, including the unemployed. Through adult literacy and community education provision, those most distant from society and those with literacy and numeracy difficulties can receive tuition to enable them to take the first step on the journey of lifelong learning. Through the vocational training opportunities scheme, unemployed adults can access a range of FETAC-accredited learning opportunities which build core skills and competencies.

I have already mentioned the value of the PLC programme for those who wish to enhance their employability. For those who wish to combine a return to learning with work, family or other commitments, the back to education initiative provides an array of part-time options which are free for any adult with less than upper-second-level qualifications. There is also the Youthreach programme for early school leavers and the senior Traveller training programme for adult Travellers. The Government has also overseen the development of the adult education guidance initiative across the country through a network of 40 initiatives providing guidance to more than 35,000 learners in 2008. The provision of a guidance service such as this is known to improve retention and progression rates, making it an integral part of providing an efficient and effective further education service.

The Government has taken a number of other significant steps in education and training to address the economic downturn. For example, the FÁS employment services, together with the local employment services, have doubled their capacity to cater for the rise in referrals from the Department of Social and Family Affairs. This has increased the annual referral capacity to 147,000 in 2009. FÁS has also managed to double its provision of training and work experience places for the unemployed to more than 130,000, which is a substantial increase on the 66,000 available at the end of last year. The training offered by FÁS ranges from a level 3 certificate on the national framework of qualifications to level 7 qualifications.

This year FÁS will deliver approximately 92,000 short-course training places to the unemployed. This is four times the number of similar courses provided last year and reflects the Government's efforts to increase relevant supports for the unemployed. Short training courses are designed to respond to individual training needs in the development of new skills and competencies. Courses are delivered in a variety of ways in order to be as flexible as possible, which has enabled more people to access them.

Keeping people close to the labour market while they are unemployed is essential to ensure they keep their skills updated and are in a position to avail of an employment opportunity when it arises. To respond to this need, the Minister for Enterprise, Trade and Employment, Deputy Coughlan, and the Minister for Social and Family Affairs, Deputy Hanafin, jointly launched the work placement programme, which will provide 2,000 unemployed people with a six-month work experience placement, earlier this year. The programme comprises two streams, each consisting of 1,000 places. The first stream is for unemployed graduates who attained before this year a full award at level 7 or above on the national framework of qualifications and who have been receiving jobseeker's allowance for the last six months, while the second stream is open to all other unemployed people who have been receiving jobseeker's allowance for the last six months. Under this stream 250 places are being ring-fenced for those under 25 years of age.

To address the significant contraction in activity in the construction sector and its impact on apprenticeships, FÁS has restructured the apprenticeship system to allow redundant apprentices to progress to the next off-the-job training phase in the education sector. FÁS has also introduced an employer-based redundant apprentice rotation scheme to provide support for employers giving on-the-job training to 500 redundant apprentices when they have released their employed apprentices to scheduled phase 4 and phase 6 off-the-job training phases in the institutes of technology. ESB Networks has agreed a programme with FÁS to provide on-the-job training to eligible redundant electrical apprentices at phases 5 and 7. This programme will provide 400 places over a period of 18 months. Finally, the institutes of technology are also providing an 11-week certified training programme for 700 redundant apprentices who have completed their phase 4 training but to whom another training opportunity is not currently available.

[Deputy Seán Haughey.]

Alongside these initiatives, the Department of Social and Family Affairs works with social welfare recipients through a network of facilitators to identify appropriate training or development programmes which will enhance their skills and ultimately improve their employment chances, as well as help them to continue to develop personally. The Department works in close co-operation with other agencies and service providers, including FÁS, VECs, other education and training providers and the local, community and voluntary sector. In addition, it provides advice and support to customers who wish to access its back to education and back to work schemes. Since September 2008, 21 additional facilitators have been appointed, and it is envisaged that up to 70 facilitators will be working in the coming months. Changes have been made to the manner in which the back to work enterprise allowance and the back to education allowance schemes operate, with the aim of providing support to an additional 1,400 claims for support under these schemes.

All Departments involved in the provision of education and training are working closely with stakeholders and providers to address the retraining and skills needs of the workforce as well as reduce duplication and overlap and achieve efficiencies to enable more effective provision. As part of our efforts in this regard the Department of Education and Science and representatives of the Irish Vocational Education Association (IVEA) and Institutes of Technology Ireland participate in the upskilling co-ordination group which is chaired by the Department of Enterprise, Trade and Employment. Both Departments are also working closely on the implementation of the national skills strategy and, in conjunction with FÁS and the IVEA, on the recently concluded national co-operation agreement which will help to improve collaboration and co-operation between providers to achieve improved efficiency and effectiveness.

In order to address the challenges of this difficult financial situation, we must continue to target and prioritise our resources to maximum effect across the education sector. We must achieve long-term sustainability in these programmes to consolidate the significant investment made by the Government. The increase in unemployment brings with it many challenges, including those of retraining and increasing skills. I am confident that by working closely with other Departments and agencies we can maximise the impact of our collective endeavours in meeting these challenges.

Senator Joe O'Reilly: I welcome the Minister of State. I am deputising for our esteemed colleague and education spokesperson, Senator Healy Eames, who conveys her apologies to the House for her absence. This is a debate for which she has been calling for some time and in which she has a major interest, but unfortunately one of her children is ill and she was obliged to leave at short notice.

The importance of this debate is brought into sharp focus when we consider that almost 423,000 people are currently on the live register. A large proportion of these are young and dislocated workers. Since 2007, employment has shrunk by 27% in the construction sector and 6% in the agriculture, forestry and fisheries sector. There is a danger that short-term joblessness may lead to long-term unemployment if the correct strategies are not put in place. Those with lower levels of education are more likely to lose their jobs or remain in unemployment. Strategies such as wage restraints, tax initiatives and employment incentives are also critical to putting people back to work but the role of education and further training is on our agenda for today.

Although one would think Ireland has the highest expenditure on education in Europe, that is not the case. A recent OECD survey revealed that 4.7% of GDP is spent on education in this country, compared to an OECD average of 5.7%. We are not at the top in terms of investing in education, even though it is the central mechanism through which we can achieve

social justice and put people back to work. A recent ESRI report made the obvious point that the leaving certificate has become the new minimum standard for accessing training and further education. The report also established that people who left school early were the hardest hit by the recession.

Education has to be part of any strategy for dealing with the recession. We need a combination of internships and continuing education for the unemployed. Internships can offer critical learning, networking and confidence building opportunities.

The large number of people who have left school without leaving certificates need to return to formal education and apprenticeship programmes. Many of them were attracted by the high wages offered in the construction and food processing sectors during the Celtic tiger years and are now facing unemployment. Enterprise development programmes can help to develop the skills needed in the export sector. The existing apprenticeship programmes ought to be expanded and those who are caught in midstream because their employers have closed or downsized should be given the opportunity to complete their apprenticeships. The National Adult Literacy Agency has found that expenditure on adult literacy increases employment prospects by a dramatic 12%.

We should expand the schemes which offer students a chance to work or study abroad, particularly in countries with which we have trade relations. Students at all levels of education should have the opportunity to gain overseas experience. Irish people are not able to access certain high end jobs at present because two languages are required. The failure to teach two foreign languages has become a significant barrier to high end jobs in Internet sales and other areas. We must encourage people to study two continental languages in addition to English and other mainstream subjects at second and third levels.

The OECD recently conducted a survey of training and reskilling initiatives. Some countries offer useful models while others have similar strategies to our own. Greece has provided additional places, Italy offers training vouchers to the unemployed, Japan uses income support loans to encourage people to take up training and education opportunities and France has built training incentives into its social welfare code. While the merits of further training are obvious to those of us who are involved in education and politics, it may be necessary to develop a carrot and stick approach for our own social welfare code. Further consideration is needed of the degree to which people should be rewarded for participating in further training and education and, when suitable candidates fail to take up available positions, the appropriateness of penalties. People cannot be forced below a certain standard of living but incentives could be accompanied by penalties such as reductions in income.

The suggestion that the junior certificate should be abolished is appalling and counter-productive in terms of enabling those from a less privileged background to get onto the educational ladder. The junior certificate is a key milestone and important preparation for the leaving certificate and should be maintained. Despite the Minister of State's comments on the number of additional places available on post-leaving certificate courses, these courses remain oversubscribed and waiting lists for places remain long. The overall priority must be to intervene to assist people with low levels of literacy to achieve certification to enable them to climb the educational ladder and ensure those who have acquired educational qualifications are able to further upskill. We must also encourage those who left the education system because they were attracted by the fast buck, as it were, to return to education or training. Education will be critical in economic recovery and reducing unemployment.

Senator Brian Ó Domhnaill: Cuirim fáilte roimh an Aire go dtí an Seanad chun an díospóireacht seo a bheith againn maidir le cúrsaí oideachais agus an tionchar atá acu ar shaol eacnamaíochta na tíre faoi láthair. It is timely that the House is debating lifelong learning and the

[Senator Brian Ó Domhnaill.]

educational dividend that can be secured from educational opportunities, particularly in the current economic climate, as Senator O'Reilly outlined. I acknowledge the work being done in this respect by the Minister of State with responsibility for lifelong learning, Deputy Seán Haughey. The Minister of State referred to the publication in December of the report, *Building Ireland's Smart Economy*, which is a framework for sustainable economic renewal. Education and training are core elements of the report and will play a major part in reshaping the economy into a modern, smart economy.

I propose to outline some of the work being done by the Minister for Education and Science, Deputy Batt O'Keeffe, and the Minister of State, Deputy Haughey. The Minister has announced 7,000 places for upskilling and retraining in the further and higher education sector to help workers who have lost their jobs. Senator O'Reilly has noted that 27% of the 423,000 people on the live register are in the construction sector. Many of them are in my constituency and I concur with the Senator that we must carefully examine the educational needs of this group, many of whom have acquired specific skills in the construction sector over a period of years. We must focus on how we can reshape these skills and refocus their thinking on gaining meaningful employment in the years ahead. If one does the calculation, one finds that 27% of 423,000 is a large number of people across all of our constituencies. We must focus on their particular needs.

The Department is doing excellent work in providing education and training courses in conjunction with FÁS. The Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, has launched a number of initiatives in this area in the past 12 months. It is important we continue with this work.

Some of the 7,000 places made available for upskilling and retraining will be taken up by people who have lost their jobs in the construction sector. The courses in question are aimed at upskilling workers to try to gain meaningful, long-term employment in growth sectors in the economy such as information and communications technology, engineering, business energy, medical devices, bio-pharmaceuticals, international finance and food. As the Minister of State noted, 1,500 of these places will be available in post-leaving certificate courses nationally. Overall, 31,688 places are available, with 3,500 full-time and part-time undergraduate and postgraduate places available, as well as places on third level transition courses and accelerated certificate programmes.

Since September more than 12,000 applications have been received from mature students for full-time higher education programmes for this academic year, an increase of 30% on last year. The individuals in question clearly wish to use this opportunity to reskill, re-train and re-educate themselves. Many of those in my constituency who applied for such courses have stated they wish to use the opportunity presented by the current economic climate. In other words, while there may be some employment opportunities available, this may be a time to reflect, reskill and regain educational advantage. The 30% increase in the number of applications indicates a substantial increase in third level participation by mature students. The Minister of State referred to an important issue which is sometimes overlooked, namely, the co-operation between the Departments of Education and Science, Enterprise, Trade and Employment and Social and Family Affairs. I welcome this co-ordinated approach to meeting the challenge we face by providing educational opportunities for individuals who wish to pursue that path in the current climate.

The Minister of State referred to the range of initiatives under the strategic innovation fund to enhance flexible and lifelong learning and encourage work based learning and the incorporation of generic competences in the undergraduate curriculum. Centres for science, engineering and technology and strategic research clusters have been created in colleges with the support

of Science Foundation Ireland. These research groups are formally linked with more than 300 multinational and small to medium high-tech enterprises. The Tánaiste and Minister for Enterprise, Trade and Employment has been instrumental in ensuring the strategic innovation fund reaches out to individuals in co-operation with many small and medium businesses and multinational companies inside and outside the State. This will have a major impact on economic renewal in the years ahead.

This week the expert group on future skills needs published its annual report which found that with continued strategic investment, the upskilling and reskilling of the labour force would play a significant role in providing current and future enterprises with the competitive advantage necessary for Ireland to achieve sustainable, export led economic recovery. This conclusion is of particular importance when one considers that the United States, the United Kingdom and other European neighbours are investing in renewal projects to try to stimulate their economies. The stimulus provided in these countries will create significant advantages for Ireland by ensuring we can export to these stimulus led economies in the future. For this reason, it is vital that we use the current economic conditions as an opportunity to improve our competitiveness by upskilling the labour force. Much work is being done in this regard.

The report also referred to the share of school leavers progressing to higher education, which is approaching the 72% figure laid out in the national skills strategy. The share in 2008 was 60%. It is a significant move of 12% in a 12 month period.

The number of highly skilled graduates in third level education has continued to increase, with the numbers this year reaching 56,300 compared to 55,100 in 2006. It is important to recognise that people are moving to third level education. There is interaction between three Departments to ensure this continues. The Department of Social and Family Welfare is also playing a role in that regard, with a number of initiatives, including the back to education and training initiatives, as well as the back to education allowance which this year is playing a significant part in allowing individuals in receipt of social welfare payments to gain educational opportunities.

While we can look at the current economic climate negatively, we have an opportunity to allow all individuals who possess the initiative to move to further education and training to receive economic assistance from the State through the Department of Social and Family Affairs. The Minister of State's Department can provide the educational space or opportunity. It is vitally important to regain our competitiveness as a state and offer educational opportunities for re-skilling to reshape our workforce in order that we can bounce back from our current economic state.

Some 27% of those who are unemployed worked in the construction sector at one stage or another. This is a high percentage and we have to focus on that element of those who are unemployed. I am not sure how we can do so. Many such individuals may be unemployed on a full-time or part-time basis and receive some level of social welfare assistance. It would be an opportune time to interview many such individuals and ascertain what the future holds for them and how the Minister of State's Department may be able to assist in that regard. Many opportunities are available in the construction section such as through the warmer homes scheme and SEI-funded schemes to transform homes to be more energy efficient. There are many opportunities in the areas of solar energy, wind energy and other forms of energy to re-skill individuals to carry out some of the work required.

I welcome the governmental and ministerial co-operation in this regard and acknowledge the Minister of State's work in the area. He is working with the Department of Enterprise, Trade and Employment and the Department of Social and Family Affairs. That work is being recognised by the number and volume of individuals gaining a third level education. I thank

[Senator Brian Ó Domhnaill.]

him for his efforts and acknowledge the work being done. This debate gives us an opportunity to reflect on what is being done and outline some of our constituents' concerns about what the future holds for them, their families and progression in work and education.

Senator Rónán Mullen: I do not intend to use all of my time.

Senator Jerry Buttimer: That will be a first.

Senator Rónán Mullen: Ba mhaith liom fáilte a chur roimh an Aire. Is ábhar an-tábhachtach é seo, go háirithe i gcomhthéacs na géarchéime eacnamaíochta.

The economy has entered the worst recession in 80 years, sparked by the global credit crunch and collapse of the Irish property bubble. The scale of the economic collapse is staggering. In 2006, at the height of the boom, the private sector was a net borrower to the tune of €10 billion. In 2009 it will be a net saver of €20 billion. This represents a withdrawal of €30 billion from the economy annually because of reduced spending on housing and consumer goods and reduced capital investment by businesses.

This massive withdrawal of capital contributed to a major growth in unemployment, with the rate of unemployment doubling from 5.9% in June 2008 to 11.9% in June 2009. It now stands at 12.9%. According to the Central Statistics Office, there are 422,500 people signing on the live register. The people concerned are not mere statistics. Each person is an individual human being, faced with a grim Christmas, the real fear of his or her home being repossessed and concerns about medical and food bills.

The slight drop in the number signing on is to be welcomed, but all that means is that we have, it is to be hoped, hit the bottom of the cycle. The figures do not, however, mean that we have yet turned a corner, nor will we without vigorous and decisive action by the Government. Clear and decisive leadership is needed. The simple fact is that we are not just facing a major economic crisis but also a human tragedy if we do not address the issue of unemployment urgently and, in particular, if we do not put in place a major lifelong education programme to ensure we allow people to develop and use their God-given talents for their own benefit and that of their community and country.

I have previously spoken on the impact of the collapse in the construction sector on unemployment, particularly in rural areas, and the need to retrain young people who left school early, drawn by the lure of high wages in the construction sector, and are now left with no jobs or saleable skills.

Senator Jerry Buttimer: That is right.

Senator Rónán Mullen: However, there is a new breed of unemployed professionals, namely, those who worked in financial services or for developers who need to re-skill for new areas of employment and sectors of industry. It is clear that we need to develop a much more flexible education system which does not just train young people but which provides an education when and where people need it. In short, we need to rethink and move from a school or college-based model to a person-centred model of education. In that regard, as a person who lectures at the Institute of Technology, Blanchardstown, I was glad to see repeated references to the institute of technology sector in the Minister of State's speech. It was the institutes of technology which, in many ways, through their applied approach to third level education gave us the graduates with the skills we needed to meet the developing opportunities in the economy. It is within that sector that we will find the necessary flexibility, focus and attentiveness to the needs of emerging industry or employment possibilities.

The local approach is important. The Institute of Technology, Blanchardstown is a particularly fine example of a college which is close to its community and aware of the needs of the community it serves, particularly, but not confined to, the Dublin 15 area. It is responsive to the community's needs and builds good relationships with local schools and so on. In that regard, I am glad to note the Minister of State referred to the 6,000 additional third level places, primarily in the institute of technology sector, provided specifically for unemployed persons during the course of the year. I also note what he said about the strategic innovation fund, particularly the good work done in the areas of interactive learning, e-learning and distance learning. Many of my colleagues in the Institute of Technology, Blanchardstown use moodle — I have been slow to start using it but have a firm purpose of amendment in that regard.

The Minister of State has mentioned examples of the projects being funded, including the supported flexible learning project in institutes of technology. He is correct to say that if it is implemented successfully, it will result in mainstreaming flexible learning methods within and across the institutes of technology. He also mentioned various other initiatives. However, I did not see a reference to the Student Support Bill. Perhaps I am not completely up to speed on this but I would welcome being brought up to speed. What has happened to that?

Increasingly, we are not talking about third level students in the old-fashioned sense of people who do the leaving certificate and go to college. We are talking about people in some cases coming from different cultures and where language assistance and support is a key issue within colleges. We are talking about people coming from unemployment who will have specific needs arising from the experiences they have. Some of them will bring great strengths and I have already witnessed that with some of my students this term.

Having worked in employment, some of these people bring great knowledge and maturity to the approaches to course materials. This brings on other younger members of the class because they have role models with more mature students whom they see valuing their education in a more focused way. That can lead to an excellent dynamic within the classroom setting. It is important to recognise that although we are in an economic downturn, there are many factors competing for students' attention, including part-time jobs, socialising and so on. That has not changed and there is a need to promote excellence not just in the delivery of third level, higher and further education and training but also in encouraging appreciation of how important this is. I pay particular tribute to mature students for the leavening effect that they can sometimes have within a classroom scenario. I mean no disrespect to younger students in saying that.

With regard to student support legislation, I have expressed a concern about the way courses are funded or grants are made available to students both in regard to fees and maintenance and support. We are moving towards a more differentiated type of course delivery, with some people coming from other cultures and others coming from employment. There are also people trying to upskill within the jobs that they currently have and who are doing courses as part of their weekly work, although not on a full-time basis. Some people may want to do a module here and there and perhaps progress in a more gradual way towards a qualification.

Will we have a system of student support with regard to fees and general maintenance grants that will support that emerging reality or will we remain stuck in a more old-fashioned model of course support, which will not be relevant to the needs of new kinds of students? I do not ask that question in an accusatory way and I genuinely seek more information on it. Student support legislation was coming down the tracks and I believe it remains there, unless I was out sick for six weeks and it was passed at that stage. What will happen with the legislation?

[Senator Rónán Mullen.]

Is it the Government's intention to provide for a more differentiated kind of course funding to facilitate those students who are coming at third level or further education and training from different backgrounds, including part-time work and partial completion of course goals and requirements? This may not happen according to the traditional two, three or four-year models we have experienced. Even if we did not have a jobs crisis we would still need to make the transition from the school or college-based model to a kind of person-centred model of further education and training delivery which would focus on the specific needs of people coming from different backgrounds.

In the past in Ireland, the Aosdána, the people of art, were a tiny part of the population but in future these people will form the majority. The advent of the knowledge society demands that education and lifelong learning be almost as accessible as fast food, although I hope it would be more healthy. I also hope we would aim for a wisdom society rather than just a knowledge society in what would be an holistic approach to education taking in the dignity of the person and the needs of the individual.

The truth is that Ireland is far behind its competitors. The report, *Education at a Glance 2008*, found that the ratio of hours spent in job related training and workplace initiatives in Ireland was just 12% compared with the OECD average of 25%, suggesting that participation in education and learning was far lower in Ireland than in other developed countries. The heart of the knowledge economy is not made up of institutions or technology but the skills and experience of our people, and these skills must be constantly refreshed to cope with a rapidly changing business and technical environment.

Lifelong learning is not just about fulfilling the economic needs of the nation. It also has a role to play in tackling social exclusion. Many young people, especially in our inner cities, do not have the interest or the motivation — this is relevant to what I stated earlier about third level education — to succeed in schools when they are young. However, as they mature such people regret not making better use of their time in school. They have often gained maturity to really benefit from education.

The success of mature students in universities is clear proof of the value of second-chance education. Everybody deserves that second chance and investing in education for the disadvantaged is a very good investment. It costs more to keep a person in prison for one year than it does to educate a young person to degree level. Even Colm McCarthy would approve of that business case.

Lifelong learning is not just an economic imperative and we can see it as a basic human right to which all of us should respond. The Government should respond to it in a targeted and intelligent way. One schooler made a memorable quote in saying: "The purpose of learning is growth and our minds, unlike our bodies, can continue growing as we continue to live." I urge the Government to be serious and ensure we put in place a real infrastructure for lifelong learning. We must create not just a smart economy but a smart society. In so doing we will create a wisdom society.

Senator Marc MacSharry: I wish to share time with Senator Ann Ormonde.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Marc MacSharry: I will be as quick as I can.

Senator Jerry Buttimer: Will the Senator use all his time?

Senator Marc MacSharry: As the Minister of State is well aware, a number of other people and I have put forward what we envisage as a proposed entrepreneurship education strategy for Ireland. Those people include business people, entrepreneurs and educators such as DIT entrepreneurship lecturer, Dr. Thomas Cooney. A 12-point plan was included in this strategy. I know the Minister is familiar with that and I want to take this opportunity to put some of the propositions on the record of the House. I hope the Minister of State will continue as he has begun in trying to implement the strategy.

The group proposed the introduction of field research projects as an element of business studies subjects and an entrepreneurship module in all aspects of third level education. Multiple intelligence and emotional intelligence theories should be introduced to social, personal and health education and a young entrepreneur of the year competition should be launched. I know good progress has already been made on establishing a schools awards programme and there should also be development of an entrepreneurship education on-line resource for teachers. Above all there should be an appointment of a champion, both internally to the Department and externally — somebody with the respect of business — to promote the implementation of the entrepreneurship education strategy.

Since we began we have been joined by business people and educators from the different levels of the education system to develop collectively a set of proposals which can be introduced by the Department of Education and Science. A total of 12 proposals have been developed, of which only one requires additional funding to existing resources. In these challenging economic times, there is little financial reason we cannot do this.

The need to develop a coherent entrepreneurship education strategy is not new to Ireland. As far back as 2002 the Goodbody report stated that the school system does not support the idea of working for oneself and the Irish education system was seen by entrepreneurs as having played a very limited role in supporting entrepreneurship to date. Since then there have been a number of successive reports, such as those by the Enterprise Strategy Group and Small Business Forum, which have successfully argued that the development of entrepreneurship education across all levels of the Irish education system could be a sustainable source of locally grown entrepreneurs.

Ireland does not, as it stands, have an entrepreneurship education policy despite the many calls in evidence-based reports published by the European Commission highlighting the substantial benefit to the nation's economy and its young people. The Commission has published a series of thoughtful reports and recommendations that it encourages member states to act upon and most of which the Irish Government has yet to introduce.

One of the members of the European Commission entrepreneurship education expert group was leading Irish academic and co-author of our own recommendations and strategy, Dr. Thomas Cooney. According to Dr. Cooney, a number of countries similar in size and peripheral geographical location, such as Scotland, Norway and Finland, have already recognised the benefits of an entrepreneurship education strategy and implemented policies to ensure all students receive some form of entrepreneurship education during their formal schooling years. There is a growing body of international evidence which demonstrates that students who receive entrepreneurship education as part of their schooling show improved academic performance, school attendance, educational attainment and have increased problem-solving and decision-making abilities, interpersonal relationships, teamwork abilities, money management and public speaking skills. They were much more likely to find employment and have enhanced social and psychological development, self-esteem, ego development and self-efficacy.

The reason students achieve these benefits is because the primary goal of entrepreneurship education is not to get everybody to start their own business but to encourage young people

[Senator Marc MacSharry.]

to think positively and look for opportunities to make things happen, to have the self-confidence to achieve their goals and use their talents to build a better society, economically and socially. It also recognises that students of all academic abilities can be part of this process and that success is not dependent on the number of points one gets in the leaving certificate but on how one lives life.

We could benefit greatly if we did that for the future. Putting the appropriate template in place now would lay groundwork similar to that laid by the Minister of State's father, Charles Haughey, and Donogh O'Malley in providing free secondary education in the 1960s. That led to the economic success we achieved in the 1990s. Similarly, doing this now and having appropriate entrepreneurship education strategy introduced throughout the education system would ensure our sustainable success for the future. I know the Minister of State, Deputy Haughey, will continue to take that forward.

Senator Ann Ormonde: I welcome the Minister of State as we face up to the challenges of the economic recession. We face a very difficult budget, as the Minister of State noted, and we must acknowledge the steps that have been taken to face up to the challenges. The only way we can do that is through education and training. We must acknowledge the enormous unemployment figures. How do we protect jobs and create new ones? How do we handle people who are unemployed? These are the challenges the Minister of State faces and I wish him well in that regard. They concern how we can overcome the problem, take people off the live register, provide courses relevant to their needs and reflect that end of society today.

The Minister of State spoke much about the smart economy, namely, how we can best secure enterprise and promote competitiveness. Again, this must come about through education and training. There is no other way at present. We must look at the needs and see who are unskilled and need to be reskilled or upskilled or whether they need to be skilled at all. Should we look again and see what society wants today? Perhaps it has changed. The concept of jobs may change in the future. I have asked many times for a debate in this House on the concept of work for the future. What is the future for Ireland? What is our vision for the future? Perhaps the old-fashioned idea of traditional courses to which the Minister of State referred may no longer be the type to pursue in respect of making links with the unemployed.

We talked about many initiatives. The Minister of State mentioned the post-leaving certificate courses which are excellent for tackling job losses and enhancing skills. The Minister of State also spoke of back to work initiatives, lifelong learning programmes and FÁS courses. There is a plethora. It concerns me there may be a great deal of overlap in many of these courses. I welcome the concept of taking courses out of colleges and putting them into the workforce or communities. Many people are long-term unemployed and may be unemployable. They do not know how to go back into the system even though the Minister of State has introduced an excellent new adult service initiative. We need to figure out how to create a link to those who are unemployed and how we can bring them into a workforce rather than into a school-type situation. We might not want that new arrangement of class and teacher.

The challenges are great and I wish the Minister of State well. The only way back is through education, training and lifelong learning. However, let it be holistic. Many people need to think about themselves as people and perhaps this is a golden opportunity for them. They want to be upskilled and they want a new "me" as they come into the world of work. If I can be of any help to the Minister of State in the area I know best, namely, education training, I would be delighted to work with him.

Senator Brendan Ryan: I welcome the Minister of State to the House to discuss this very important matter. We must have a skills drive for people who have lost their jobs and those who may be in vulnerable sectors of the economy. The current financial difficulties, massive unemployment and impending social crisis demand immediate attention and action. Action on reskilling and upskilling of workers must be taken to expand education and training opportunities, especially for further, adult and third level education and training opportunities. Investment in education and training must be a Government priority if Ireland is to recover from the current economic crisis, regain competitiveness in the labour market, avert high social welfare dependency and prevent deepening poverty.

The Central Statistics Office figures released yesterday indicate there were 412,400 people on the live register at the end of October. Nearly 85,000 are under 25 years of age. Youth unemployment is a social time-bomb. If young people are condemned to a pattern of long-term unemployment in their teens and early 20s, it is particularly difficult for them to emerge from that. The Government must increase very significantly the number of education and training options for young unemployed people. The Minister of State spoke about the work placement programme. How many, if any, of such places are ring-fenced for the under-25 age group? The work placement programme announced last May by the Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, and the Minister for Social and Family Affairs, Deputy Mary Hanafin, was originally heralded as an opportunity to offer unemployed graduates receiving jobseeker's allowance valuable work experience for a fixed term of six months. This scheme was introduced on 1 August. Why is the requirement to have been in receipt of jobseeker's allowance for a six-month period so critical? Is there not a case to be made for shortening that period, perhaps to three months? I am interested to know the reason for having that condition, such as it is.

Regarding the 2,000 work placements offered to potential candidates nationwide, to which the Minister of State referred, two streams exist, as he indicated. One thousand placements are to go to graduates and 1,000 to people other than graduates. Obviously, these are difficult fiscal times. Considering the scale of the problem, are those numbers sufficient to do more than scratch at the surface of the problem? To what extent are the streamed offers being taken up? Is flexibility allowed for moving between the streams? Are there any issues in this regard? I would be interested to hear the Minister of State's comments.

This highlights the dismal performance of this Government to date in providing real options for young unemployed people. I listened to the Minister of State's list but the key point is whether it is enough. We are in difficult times but must look for creative ways and measures to deal with this problem. Paying potential workers unemployment benefit is dead money and a considerable waste of resources. I am sure the Minister of State realises this. That money could be an investment in the education and upskilling of the potential workforce. Clearly, an innovative and coherent plan is needed urgently to tackle the rising rate of unemployment, especially among school leavers and college graduates about whom we have talked already.

The Minister of State mentioned there were 31,000 places at post-leaving certificate, PLC, level. However, a cap was put on that figure. The cost of providing extra places is probably marginal and it is questionable whether limiting places in this way can be justified. In addition, a cap was placed on vocational training. Why do these caps make sense when the fixed costs are already in place in the form of teachers, buildings in some cases and so on?

Since international evidence indicates that investment in formal training has significant returns for the individual, that investment is more important now than ever if we are to provide any kind of response to the skills deficit in the workforce.

An Leas-Chathaoirleach: As it is now 1.20 p.m., I must call on the Minister of State to reply.

Minister of State at the Department of Education and Science (Deputy Seán Haughey): We have had a constructive debate. I am always impressed by how constructive and co-operative Seanad debates are. They are less combative than they are in the Lower House and I thank Senators for their contributions.

A number of questions were raised and I will endeavour to answer as many of them as possible. Many Senators referred to the need for co-operation between various Departments and agencies in this area. For the first time, we are achieving that co-operation. My appointment as Minister of State with responsibility for lifelong learning at the Departments of Education and Science and Enterprise, Trade and Employment represents progress in this regard, as it is an attempt to bring about co-ordination in the delivery of our education and training programmes.

The upskilling co-ordination group is an important body and comprises representatives of all of the major education and training players. It is bringing about the co-ordination discussed by Senators. The inter-departmental committee on the implementation of the national skills strategy comprises representatives of the Departments of Education and Science, Enterprise, Trade and Employment and Finance. I assure Senators that Departments and State agencies are co-ordinating on these matters.

A number of Senators referred to the position of construction workers, a problem that I recognise. FÁS training courses are available to everyone who is unemployed. Many redundant construction workers are being reskilled in new occupational areas where employment opportunities exist. FÁS is providing a variety of training courses in the sustainable technologies sector to give construction workers new skills. These include courses in the installation of solar panels and wood pellet burners and training in assessing building energy rating certificates and are available in the majority of FÁS training centres. Senators Ó Domhnaill and O'Reilly raised this matter. Specific measures have been put in place to enable 3,800 redundant apprentices to progress their apprenticeships this year.

Senator Mullen raised a number of issues, particularly the Student Support Bill 2008. It is hoped that Committee Stage will commence following the resolution of some legal issues with the Attorney General's office.

Many Senators outlined their opinions on the importance of lifelong learning. While we are debating it in the context of its importance to our economy, Senator Mullen and others pointed out that it is also good for the individual in terms of his or her social and personal development, family and community and for society as a whole. Lifelong learning is important for our economic development, but its other aspects, such as further education for which I have responsibility, are important for our society. Attending various events around the country to give out certificates to people who have taken the huge leap of returning to education and seeing their satisfaction and that of their families is wonderful and makes everything the Department of Education and Science is doing in terms of further education worthwhile.

I acknowledge the contribution of Senator MacSharry and confirm that the policy document on an entrepreneurship education strategy for Ireland produced by him and others is being examined by the Department. The Seán Lemass award for excellence in enterprise is derived from it. The student enterprise awards are administered by the city and county enterprise boards and there is something called the mini-company programme for transition year students. It is proposed that the top three projects from each of the two programmes would go forward to receive the Seán Lemass award. It is envisaged that a special event will be arranged in mid-May of next year. Hopefully, the Taoiseach will be present. The awarding of certificates to the participants and the schools involved will be made at that time. This is a direct result of the

policy document submitted by Senator MacSharry and others regarding the need to promote entrepreneurship throughout our education system.

Senator Ryan asked a number of questions, but I am not sure whether I will be able to deal with them all this afternoon. He referred to the work placement programme, which will provide 2,000 people who have been unemployed with six-month work experience placements. The first stream is for unemployed graduates and the second stream is open to all other unemployed individuals who have been receiving jobseeker's allowance for the past six months. Under this stream, 250 places are being ring-fenced for those under 25 years of age. The statistics demonstrate that there is a problem in respect of that age group. All of the efforts of the Departments of Education and Science and Enterprise, Trade and Employment will examine this issue to determine what can be done.

Senator O'Reilly mentioned the junior certificate. To clarify, there are no definite proposals on the abolition of that examination at this time. A headline on its abolition in last weekend's *Sunday Tribune* suggested it would save €30 million. The Minister for Education and Science, Deputy Batt O'Keeffe, has concerns regarding the junior certificate and how it operates. In particular, he is concerned about the emphasis on rote learning, which he views as a problem. He has asked the National Council for Curriculum and Assessment to consider the junior certificate to determine whether and what improvements could be made. However, this process is at an early stage and there are no definite proposals.

Regarding some of the other questions raised, I agree with all of Senator Mullen's comments on the crucial role of the institutes of technology and the specialist knowledge they bring. Indeed, they have not been found wanting in the current crisis. They have been responsive, have recognised where there was excess capacity and have introduced new proposals to deal with that issue. Every economic player has been responsive to the current crisis.

The Irish Vocational Education Association has been extremely constructive and organised various seminars and conferences on how the VEC sector can respond to the difficulties we face and the need for upskilling and retraining. Upskilling is vital to the economy during the economic downturn. We need to gain a competitive advantage over our trading partners. The national skills strategy is in place. We face a huge challenge in upskilling 500,000 people by at least one level in the national framework of qualifications by 2020.

In the short term the emphasis will be on the unemployed. The workforce also includes those who have lost their jobs. All our efforts are concentrated on them. Employment activation is constantly under review. A large number of measures were brought forward in the April budget. This area continues to be looked at with a view to bringing forward appropriate measures in due course having regard to the resources available. The need for employment activation is constantly under review, while new proposals are continually being examined.

Sitting suspended at 1.35 p.m. and resumed at 2 p.m.

Courts and Court Officers Bill 2009: Second Stage.

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

Minister of State at the Department of Justice, Equality and Law Reform (Deputy John Curran): I thank the Seanad for agreeing to consider this legislation today. Most Members will appreciate that since the Courts Service was established in 1999, it has energetically and systematically pursued a programme of transforming the physical infrastructure of the courts. Not so long ago, many of our courthouses provided their users with a pretty dismal experience. In a relatively short space of time, with significant support from Government, the Courts Service has undone much of the legacy of decades of neglect of the courts infrastructure

[Deputy John Curran.]

throughout the country. A total of 41 courthouses have been refurbished and ten newly-built courthouses have been completed.

There is no question but that the development and construction of the Criminal Courts of Justice is of a far greater magnitude and marks the advent of a new era for the courts in Dublin. It is the largest court building project since Gandon's Four Courts building was completed in the late 18th century and is one of the most significant developments in the history of the courts in Ireland. Ever since the fledgling Dáil courts were established in the most difficult and divisive circumstances, the courts have served this country well. It is hoped the new Criminal Courts of Justice will in time, create its own history and will continue the strong tradition since 1922 of a just and independent Irish judicial system.

Construction of the complex commenced in May 2007 with a construction programme of 34 months and a target date for completion of March 2010. However, the building will be completed three months ahead of schedule and is on target to be handed over later this month. The complex will provide vastly improved conditions for the public, jurors, victims and their families which Members will agree is only right. People who come into contact with the criminal justice system, whether as a juror, a victim or a witness in a case, are nervous and intimidated without suffering the poor facilities and extremely close contact with the accused which had unfortunately become the norm in the Four Courts which was not designed for the volume or demands of the modern criminal justice system. Secure segregated accommodation and access routes are provided for the public, jurors, persons in custody and staff. The reception area for jurors can accommodate up to 400 people and jury dining facilities and retiring rooms are provided within a segregated area. Rooms for victims, witnesses and vulnerable witnesses are provided within a secure area. Representatives of victims and jurors are delighted with the facilities planned for them. A visit to the complex has been arranged for the members of the Joint Committee on Justice, Equality, Defence and Women's Rights.

The new building will concentrate all central Dublin criminal business in one serviced location. This means transferring courts and administrative offices from the three jurisdictions — District Court, Circuit Court and High Court — as well as the Special Criminal Court, to one new centralised facility. This facility will have a significant impact on the criminal justice system and allow for more efficient logistical management of criminal trials. It will also allow the Four Courts to be freed up for civil business, which has been a major demand in recent years. The Courts Service has met this challenge by making full use of refurbished courthouses around the country for non-jury High Court lists but with the opening of the new complex, the Four Courts will once again be the main High Court venue in the country.

The Courts Service has, since its establishment, set about changing the physical infrastructure of our courts. However, change is not only about buildings; it is also about how the courts do business. In this regard, the courts have transformed the way they do their business by embracing new technologies and work practices. One example of this is the introduction of digital audio recording which has been installed in 41 courts nationwide over the last year and also in the new complex. This encompasses all Central Criminal Court, High Court, Family Law Court and Circuit Criminal Courts. The technology replaces stenography and transcripts can be produced overnight where necessary, speeding up the court process considerably. It also provides significant assistance in dealing with appeals.

The Courts Service has also created a unified staff structure which brought together three distinct staffing streams from the Circuit and District Courts, the High and Supreme Courts and the Department of Justice, Equality and Law Reform. Prior to the establishment of the service, the three streams had separate career structures, promotional opportunities and methods of promotion. The unification provided for a transparent merit-based promotion

system, allowing for greater flexibility and expertise for the Courts Service in the management of resources and supporting the courts.

The Bill before the House has enabling provisions to underpin streamlined management procedures in the new complex, which are especially necessary given its scale, but which can in future apply to other court venues as appropriate.

Part 2 of the Bill has a number of provisions to allow the Irish Prison Service to manage the central holding facility for people in custody and to have control over all persons held, including those who have not been committed to prison by the courts. The main objective is to avoid duplication of effort by the Irish Prison Service and the Garda Síochána and free up gardaí for operational duties.

The Bill allows for the temporary transfer of custody of a person to a holding area officer solely for the purposes of facilitating a court appearance by that person or the holding of a court hearing involving him or her. It is necessary to make legislative provision for this change so that the Irish Prison Service may be responsible for the custody of persons in holding cells in the courts who have up until now remained in Garda custody. A reciprocal arrangement whereby a prisoner may be temporarily placed in the custody of a member of the Garda Síochána is also provided for. This provision allows a garda to have temporary custody of a prisoner in the limited circumstances of facilitating a court appearance. I will be introducing a short amendment on Committee Stage to change an element of the provisions covering Garda custody of prisoners who may be held temporarily in Garda stations pending a court appearance.

Our intent is to provide for a situation where a garda may take temporary custody of a prisoner within or in the vicinity of a courthouse rather than impact on the existing situation in terms of those held in a Garda station. I look forward to detailing the changes we propose to make on Committee Stage and I trust Members will agree with the logic behind the amendments. Part 3 makes provision to improve staff management and flexibility further by designing a single administrative office rather than an office for each court jurisdiction. This builds on other changes introduced by the Courts Service in recent years. It will fully integrate the courts' staffing structures and allow for efficient procedures for the deployment of staff. Part 4 will allow a District Court clerk to take bail recognisance in certain instances without the need for the applicant to return to court and expand the range of persons who can take a recognisance in the case of an appeal from the District Court. Given the size of the building, considerable efficiency will be gained from this small change.

I will outline the provisions of the Bill to the House. Sections 1 to 4 form Part 1 of the Act and are standard drafting provisions. In Part 2, section 5 contains a number of definitions. At present, a person may be in custody for a number of reasons. He or she may be charged with a criminal offence by the Garda or may be held by the Irish Prison Service on foot of a court order, either on remand or on conviction. Up to now both agencies have shared access to cell areas. However, in the new complex the Prison Service will manage the custody area, thus freeing up the Garda for other duties. The main feature of this part is to provide a legislative basis for a person in custody to be placed in temporary custody of either the Garda Síochána or the Irish Prison Service. In the main, this will facilitate the management by the Prison Service of the new custody area. The reverse provision, in which prisoners of the Prison Service may be held in the temporary custody of the Garda, will be less frequently required but is included to ensure every possibility is covered and, as I indicated earlier, we will introduce an amendment to this provision to reflect the existing role and function of a member-in-charge in a Garda station.

[Deputy John Curran.]

Section 6 explains that a prisoner or person may be placed in the temporary custody of the Garda Síochána or a prison governor in a place in or adjacent to a court building for a purpose referred to in section 7. Section 7 provides that a person can be held either to facilitate a court appearance by that person or for the holding of a court hearing involving him or her. An example of such a situation this second provision is intended to cover would be if persons who are already in custody were required as witnesses in another case. Section 8 indicates at what point temporary custody under section 6 commences and ceases. Section 8(1) provides that the temporary custody commences when the prisoner is placed in the custody of the holding area officer and ceases either when the prisoner is returned to the person in whose custody they were prior to the temporary custody, or is released by order of the court. Under section 8(2) a person lawfully in the custody of the Garda Síochána may be placed in temporary custody of a governor for the purposes of a court appearance. This temporary custody commences from the moment the person is placed in the custody of the holding area officer and ceases either when the person is returned to the previous person of custody or released by order of the court.

Section 9 provides that a person placed in temporary custody shall be regarded as remaining in the custody of the person in whose custody he or she was before being so placed. The next section requires the prison authorities or the Garda Síochána to hand over to a holding area officer any medication, prescriptions for medication, health information etc. when placing a person in temporary custody. The reverse applies when the holding area officer is returning the person to custody. Section 11 sets out the duties, functions and powers of a holding area officer in respect of a person who has been placed in his or her temporary custody. Section 11(1) imposes certain obligations on the holding area officer. He or she must prevent a person in temporary custody from escape, prevent the commission of an offence, ensure orderly and disciplined behaviour, bring him or her to a court or court office, ensure his or her appearance before court and comply with any court order relating to his or her custody, treatment or transfer. Section 11(2) confers on a holding area officer a power of search in accordance with the prison rules in respect of the person in temporary custody if of opinion that it is necessary to the performance of the officer's functions to do so. This is to ensure that standards of safety are consistent regardless of the origin of the person in custody. Section 11(3) outlines that the holding area officer may use all reasonable force, where necessary, in the performance of their functions. Section 11(4) applies the same obligations and duties on a member of the Garda Síochána for the purposes of temporary custody. Section 11(5) is included to avoid any misapprehension. It retains all existing powers of search under the prison rules exercisable by a holding area officer who is a prison officer. Section 12 empowers the Minister to make a number of regulations, for example, governing standards, record keeping etc.

In Part 3, section 13 is a standard drafting provision containing definitions. Section 14 sets out the steps for the establishment of combined court offices. Sections 14(1) and 14(2) enable the Courts Service, having undertaken the necessary consultations, to establish a combined court office. As part of this process they will designate two or more court offices to comprise the combined office and set out the business to be transacted in the office. Section 14(3) requires the Courts Service to publish notice of establishment in *Iris Oifigiúil*. However, it notes that failure to publish will not affect the validity of the office's establishment. Section 15 allows the Courts Service, subject to consultation, to change or remove the functions of any constituent office of a combined court office, other than any business relating to the Special Criminal Court.

Section 16 requires that the Courts Service must consult with the Chief Justice or President of the relevant court before establishing a combined court office. Section 17 provides a power for the Government to make an order applying these sections to the business of the Special

Criminal Court, obviously excluding the judicial business of that court. Section 18 provides for certain legal consequences to follow where business of a court office is transacted in a combined court office. Sections 19 to 22 provide for the staffing arrangements which may apply in a combined office. For example, section 20 confers on a combined court office manager the management and control in regard to all matters of general administration of the combined court office, subject to the general directions of the Courts Service. In the case of the new complex this manager has already been appointed and has been overseeing preparations for some time. Section 22(2) enables any member of Courts Service staff to act as registrar to the Central Criminal Court, the Court of Criminal Appeal, the Courts-Martial Appeal Court or the Circuit Court, where those courts form part of a combined court office. This provision will allow for flexibility and maximise use of available staff and accommodation.

Section 23 makes provision to ensure the continuity of the administration of justice or of the business of a court office affected is not interrupted by the establishment, variation of the functions or disestablishment of a combined courts office. Section 24 amends the Courts Service Act 1998 to incorporate in the powers conferred on the Courts Service under that Act the powers given to it under the Bill to establish, vary the functions of or disestablish a combined court office.

Section 25 is the first section in the fourth part of the Bill which covers a number of provisions relating to bail. It amends section 22 of the Criminal Procedure Act 1967 and will have the effect of conferring on a District Court clerk power to take bail recognisances, where the District Court has admitted a person to bail with immediate effect when remanding that person or sending him forward for trial or sentence. Section 26 amends section 24 of Petty Sessions (Ireland) Act 1851. The effect of this section is to extend the categories of persons who may take bail recognisance, where bail has been fixed by the District Court pending an appeal to include a District Court clerk, a prison governor and prison officer.

I am conscious these provisions are technical and I thank Senators for their patience. The Courts Acts generally are highly procedural. They comprise over 100 statutes, many of which date from before independence. However, in co-operation with the Department, the Law Reform Commission is working on valuable legislation to codify the provisions. This will be of great assistance both to practitioners and anyone wishing to access the courts. The provisions set out in the Bill will, once enacted, make their own small but important contribution to greater efficiency. I trust all Members will support the measures proposed and I commend the Bill to the Seanad.

Senator Eugene Regan: I thank the Minister of State for coming to the House. This Bill, which has Fine Gael's support, is designed to modernise and improve efficiency in the courts. It has been necessitated by the need to ensure the new Criminal Courts of Justice complex operates effectively and functions appropriately. The building of the aforementioned complex is a wonderful development and will be beneficial for the court system and for court efficiencies. The Courts Service has done wonderful work in modernising the court system since its establishment. This complex will deal with all central Dublin criminal business, including that pertaining to the District and Circuit Court, as well as the Central Criminal Court, the Special Criminal Court and the Court of Criminal Appeal. This is to be welcomed.

The Bill underpins a streamlined management procedure for this complex. In so far as the Irish Prison Service will be given responsibility for managing the central holding facility for people in custody and will have control over all persons held there, including those who have not been committed to prison by the courts, it will help to free Garda time for other operational duties and will avoid duplication. The establishment of a holding area officer also is welcome

[Senator Eugene Regan.]

and the designation of a single administrative office rather than an office for each court jurisdiction is appropriate.

I note the miscellaneous provision regarding the taking of recognisances by the District Court clerk in certain instances. I wonder whether this proposal has been thought through and how it would operate in practice in a busy court in which a judge makes orders in respect of bail and recognisance. There is much business to be conducted in the court and I wonder whether, if there is a handing up to the clerk of a recognisance in the court, it would slow down the court's business. For example, if anything interferes with the flow of business in the Bridewell court, it can slow down the process. The determination of bail in respect of ascertaining who will provide the recognisance and what member of the family will provide the money takes time. I appreciate this measure has been introduced to facilitate the process but I wonder whether it will do so in practice.

The Minister of State has mentioned that he proposes to table an amendment on Committee Stage and I reserve my position on it. However, in many ways this is a straightforward Bill. Its theme is efficiency and it is designed to facilitate the new criminal court complex. Fine Gael is fully supportive of the Bill. I reserve my position in respect of some minor amendments which may be relevant to ensuring the object of the legislation is achieved but otherwise I commend the Bill to the House.

Senator Lisa McDonald: I also welcome the Minister of State to the House and wish to signal my support for the Bill. As the Minister of State noted, courts Acts in general are quite technical and do not contain anything exciting. At the same time, however, when the Courts Service or courts offices do not work or, as Senator Regan mentioned, business does not flow, it can cause a great deal of angst, strife and vexation for victims, practitioners, judges and everyone involved in the administration of justice. The changes contained in this Bill are quite minor as this legislation has been prompted by the construction of the new criminal courts complex in Dublin. While I look forward to visiting it and seeing it in operation, it seems to be a state-of-the-art complex in which every need of victims, practitioners and courts staff will be met. The bringing under one roof in Dublin of all those courts to enable the High Court to become the central High Court for civil cases again is welcome. Obviously security issues will be easier to deal with in the new complex. For example, I note that one of its design features is to minimise the proximity of victims to the accused and it also provides for remote video links etc. which is welcome. In another recent development, the Courts Service introduced a new on-line accounting system which helps to free up staff time in respect of dealing with other matters and which is highly worthwhile.

The temporary transfer of prisoners to a holding officer clearly will free Garda time. However, I cannot let this opportunity pass without commenting that in any District Court in the land, gardaí are sitting around all day waiting to be called. It is a pity this Bill will be passed without addressing this point as it provides a good opportunity to do so. I acknowledge this Bill has a specific focus but if one takes a step back to consider how District Courts are run nationwide, great wastage of Garda time is evident. In my experience of District Courts, the absence of a call-over means one is obliged to sit there all day. Moreover, one does not know whether the relevant garda will turn up. Sometimes he or she does not do so and the case then is either adjourned or struck out. If a garda fails to turn up the next time such an adjourned case is scheduled, it eventually can be struck out on the delay rule arising from the Arthurs case. Something must be done in this regard but I do not know what. The Circuit and High Courts run efficiently in that regard in that one usually knows the day and week when a case will be called. I do not understand why this cannot be done in respect of the District Court. I

appreciate the great volume of work faced by District Court judges.. Recently, when I asked a judge in the midlands whether, in respect of a case in the list, I could wait until 7 p.m. or 8 p.m. to be heard, he told me to go away and to tell the Minister for Justice, Equality and Law Reform to appoint more judges. Something must be done about the District Court.

I have stated repeatedly in this House that separate family law courts should be considered. Last year or the year before, I attended a conference in Paris on domestic violence. The British system has different domestic violence courts. I will outline the manner in which the Irish District Court is run. The court is called at 10 a.m. and if there are urgent cases that must be heard, which generally pertain to domestic violence or sometimes to children's law and children's rights etc., the District Court judge must hear them. Therefore, despite the provision of separate family law days, which usually comprise a full day once a month in the country jurisdictions, District Court judges are under great pressure to deal with the family law caseload that invariably comes in every morning the court opens. As a result, a judge will not start his or her business until noon. After lunch, if the court breaks for lunch, the judge again returns to urgent family law cases and may spend another hour or so at that. This is causing great frustration among practitioners and I am sure among the Judiciary as well, but most of all for the victims or those who require justice to be heard and done in their cases. I believe Members are missing an opportunity at this point to consider this issue. While I appreciate that much more committee work must be done on this area, I will not allow the opportunity to pass without highlighting this issue.

In addition, the issue of the efficient use of Garda time when dealing with criminal law cases must be considered. As I noted previously, a judge might not even start the list until noon and the gardaí involved would have been sitting around or coming and going since 10 a.m.

Dealing with debt collection, maintenance, arrears and such issues could also free up a great amount of time. The system is not working efficiently. It is a great ideal that we want to have the courts system working more efficiently. I note that the amendments refer to the Petty Sessions (Ireland) Act 1851 and a great amount of work must be done in that regard. There is also a reference to an Act of 1967 in the measure to allow the District Court clerk to have the power to take bail recognisances. That is welcome but we must work out how it will work in practice. Let us take the opportunity to deal with this issue more efficiently than the Minister's amendment suggests. Perhaps it will deal with the issue satisfactorily; therefore, I will not second-guess it.

Some areas of the courts system do not work efficiently and we must examine and deal with them properly. The *in camera* rule in family law cases does not work efficiently in the District Court. Invariably, parties are sitting in packed courtrooms and in districts where people tend to know one another's business and it is very clear what is happening.

Many practitioners claim that the PIAB is not running efficiently. It still takes 12 to 18 months to get to court, after spending one year in the PIAB. This must be examined in order that we can streamline the system and make it more efficient.

The combined Courts Service location is great. The Circuit Court office and the District Court office in Wexford are located in different parts of the town. This is not efficient. I know the Minister cannot comment on a judicial review case under way but we can examine the matter in the context of the Bill. It was raised in the House by two Senators last week. The example I know best is that of County Wexford. The District Court for smaller towns in the county — New Ross, Enniscorthy and Gorey — now sits in Wexford District Court. A judicial review has been sought by some solicitors in New Ross, suggesting the power is not available

to do this. The Minister cannot comment on the case before the courts but we must examine the matter. Is the practice allowed? There is not much appetite in smaller towns to have the District Court moved to larger towns and the issue must be addressed.

The Bill is technical in nature and there is not much to speak about. It is codifying legislation which will assist practitioners, the Judiciary and everyone involved in the streamlining of the process. There are many more areas in the administration of justice and the Courts Service that we could examine.

Senator Ivana Bacik: Like others Senators, I welcome the provisions included in the Bill. For the main part, the Bill is technical and deals with the coming into being of the new criminal courts complex. Other Senators have paid tribute to the Courts Service and the Department for the efficient and timely near-completion of the complex. I have spoken with colleagues who are criminal law practitioners and people involved in the prosecution service and understand the building is due to come on stream in early December, although the Minister referred to the end of this month. In any case, it is earlier than previously anticipated. From the Minister's nod, I think it might be December rather than November.

According to those who have seen the complex, it will be a major improvement. I am a member of the Joint Committee on Justice, Equality, Defence and Women's Rights and look forward to the committee's visit to the new complex. In particular, we welcome the provision of a reception area for jurors. In my days in the Circuit Criminal Court I remember the chaos that ensued as prospective jurors mingled with members of the public, gardaí, prison officers, accused persons, solicitors and barristers at the side of the Four Courts building, in Courts Nos. 24, 25 and 26. Improvements have been made in the provision of accommodation for jurors, witnesses, vulnerable witnesses and victims. There will be greatly enhanced provisions for these categories, which is particularly welcome in the case of victims. Research I have conducted and that carried out by others on the need for greater provision for victims shows that one of the key complaints victims tend to have concerns the physical space they are provided with in court premises. All too often, they are left in close proximity to the accused or members of his or her family. This can be very traumatic and distressing for victims and vulnerable witnesses. I welcome the new era of criminal trials that the Bill will herald, where appropriate space will be provided for such persons and they can remain separate. This is also important for accused persons.

There has been some griping among practitioners. Deputy Rabbitte has commented on the fact that practitioners can no longer switch between civil and criminal work as they currently do at the Bar. They will now be much more inclined to confine themselves to one area of work. That is not necessarily a bad thing and might explain why an unprecedented number of criminal practitioners recently took silk in the Law Library. As Deputy Rabbitte suggested, the Minister could start a barge service along the river to facilitate those who wish to move between the Four Courts and the criminal complex. That is a somewhat light-hearted comment but joking aside many of those engaged in criminal trial work must be engaged in civil work also because of judicial reviews. Senator MacDonald referred to one such review under way. There is a major increase in the number of judicial reviews arising from criminal proceedings. There has been great expansion in this area; therefore, it is important there remains a crossover in so far as criminal practitioners can also be engaged in judicial reviews arising from trials.

I welcome the bulk of the Bill and compliment the Courts Service on bringing the new building on stream. It marks an improvement in the running of criminal trials. Many of the provisions of the Bill are administrative in nature and give effect to the move. The Labour Party submitted amendments on Committee and Report Stages in the Dáil but the Minister

did not accept them. I intend to resubmit the amendments to Part 2 of the Bill as they deserve substantive comment.

Part 1 is the preliminary Part of the Bill; Part 3 deals with the combined courts office, while Part 4 deals with miscellaneous provisions. There can be no issue with these. I welcome the expansion in Part 4 of the category of persons who can take recognisances. This will improve the efficiency of the system and is a welcome change.

Part 2 of the Bill deals with temporary custody. I take the Minister's point that it deals with the difficulty where persons have tended to remain in Garda custody when in holding cells in court. This change facilitate will their removal into the custody of the Irish Prison Service. The Labour Party amendment in the Dáil sought to place a limitation on the persons who could be placed in temporary custody. Sections 6 and 7 refer to prisoners, within the meaning of the Prisons Act 2007, but section 7 extends the reference to include other persons. I presume this must relate to section 6(2) which deals with a person lawfully in the custody of the Garda Síochána but the Labour Party amendment seeks to make it specific.

That is important because we may generally describe these as administrative or technical provisions but Part 2 deals with the deprivation of liberty and we must be very careful about how these provisions are framed. We must ensure they are framed in as tight and as narrow a way as possible to ensure we do not in any way encroach on constitutional rights to liberty. Will the Minister of State consider placing this limitation on the definition of "person" in section 7? I will make this point again on Committee and Report Stages.

Section 7(b) allows for the holding in temporary custody of people not only for the purpose of making their own court appearance — where one assumes they would be the accused — but also their participation as a witness or in another capacity in a court hearing involving them. This might require more caution and I would like to know what the Minister of State envisages that this section will cover. On Committee Stage, we may want to tease out what exactly this is designed to cover. Why would a person be held in temporary custody? One assumes it is somebody who is already serving a sentence and is being asked to appear as a witness in another trial or who may be appearing as an accused in another trial. The phrase, "in another capacity" is very broadly drafted given that we are speaking about the deprivation of liberty. Another aspect of this relates to the safeguards for persons placed in temporary custody.

Section 10 facilitates the handing over of medications to the holding area officer, which is very practical and section 11 deals with the functions of the holding area officer, including granting the power of search to the holding area officer. We should examine this in more detail on Committee and Report Stages.

I want to ask the Minister of State about section 12. It is a facilitative section, allowing the Minister to prescribe the standards to be employed in the safekeeping of a person who has been placed in temporary custody. What type of regulations are envisaged to be applied? It rings alarm bells for me. This will provide for persons who, for the most part, have been convicted of offences to be held in custody by the Prison Service. Those convicted would now be held on a different premise, for the purpose of appearing in court in another matter or participating in a court hearing as a witness or in the unspecified other capacity. However, we are not being told what are the safeguards; we are simply told the Minister will prescribe. What are the criteria by which the Minister will prescribe safeguards? What reference point will he or she have for the development of standards? I am conscious that custody regulations and prison rules are already in place but I am not clear to which standards the Minister will refer because they are rather different.

In sections 5 to 12, which make up Part 2 of the Bill and which deal with temporary custody, there is no limitation on the length of time a person can spend in custody. The Minister of

[Senator Ivana Bacik.]

State mentioned the very diverse range of courts Acts. I was aware that they were being codified and I am delighted the Minister of State has confirmed this. It is long overdue and a welcome development. Undoubtedly, those in the Law Reform Commission are the best people to develop this codification. The Minister of State is aware that at present, the Courts Acts provide for various time limits for which persons may be held in custody prior to court appearances. The Minister of State will recall that “as soon as practicable” was the formula used in one Act and “forthwith” has been used in other Acts.

I should declare an interest because I was involved in a case where the meaning of “forthwith” in that context was considered. The question was for how long one could hold a person lawfully in custody prior to bringing him or her to court where the obligation was to bring him or her to court “forthwith”. We won a case in the Supreme Court on that basis and the legislation was subsequently changed. People may well be held for periods of hours or days under these provisions. Will the Minister of State clarify whether it is envisaged that anyone would be held overnight in temporary custody? My reading of the Minister of State’s speech is that it is not envisaged and that what is envisaged is simply a transference for a matter of hours to a holding cell of people who are already being held by the Garda under other powers while they wait to be called up before a judge.

There is nothing in the Bill about time limits but there are plenty of references to time limits in other legislation providing the Garda with powers to hold people in custody. How will that tally with the provisions here for temporary custody, undefined as they are? Perhaps “temporary” is the only word that implies there is any time limit and for me that raises issues. According to section 5, “‘temporary custody’ shall be construed in accordance with *subsections (1) and (2) of section 6*” but there is no sense there of any outer limit. Clearly, it is anticipated that it would be for a matter of hours as people wait for the court list to be gone through, but Senator McDonald already referred to difficulties with court lists. A court list may go over to another day. In that case, will a person be capable of being held in temporary custody overnight?

I raise these issues with the Minister of State to ensure the Bill can be brought into effect in as timely a way as possible and that the operation of the new courts complex will be as smooth as possible. As I stated, I very much welcome the Bill and I recognise that most of its provisions are purely technical. However, I urge some caution that the provisions under Part 2 relate to the deprivation of liberty.

Senator Jim Walsh: Unlike some other speakers my profession was not in the courtroom, which I sometimes regret because of the lucrative nature of ploughing one’s trade in the hallowed halls of those establishments——

Senator Eugene Regan: Always a dig.

Senator Jim Walsh: ——and finding oneself in a position where one can charge people whatever one likes which has no bearing on the cost to oneself or to the amount of time one gives.

Senator Ivana Bacik: Not if one works in the criminal legal aid scheme.

An Cathaoirleach: On the Bill.

Senator Jim Walsh: This is relevant to the Bill because the Bill is designed to improve the efficiencies of the system, which I welcome. The main provisions of the Bill will enhance the system and, it is hoped, will improve value for money in the courts area, if that is at all possible. It is interesting that a motion signed by many on this side of the House, which I am informed

will be tabled in the near future, on limiting the fees for senior counsel to €969 per day failed to get the support of esteemed colleagues, legal or otherwise, on the other side of the House.

The Bill deals with the maintenance of prisoners in custody and how they are dealt with. The purpose of the Bill is to allow the Prison Service to take custody and not involve Gardaí in the court system. This will have a beneficial effect. Many attempts have been made to increase community policing and the visibility of gardaí on the streets. We have debated that issue on previous occasions and a former Minister for Justice, Equality and Law Reform made improvements in that area where administrative roles in the Garda Síochána were opened to civilians. That has had some effect, as will this, to free up gardaí who are well-qualified and quite well paid and whose job it is to deal with crime. This may provide a template for extension to other areas. The courts are often timed around the convenience of the Judiciary and the legal system rather than gardaí and those who have a serious and responsible job in maintaining order in society, and this creates a certain imbalance in how the system operates.

Anything that tackles and improves this is to be welcomed.

We have talked here before about video evidence. Under this Bill, court clerks will be authorised to deal with people when they are brought before them for bail reconnaissance. We should consider such changes in the system. Much more use should be made of videoconferencing and so on in remanding prisoners. The idea of having to bring prisoners any distance to court, with all the attendant costs, for purely technical or legal formalities is unpalatable. Obviously people must be able to defend themselves properly and effectively when charged, but common sense must prevail within the system and the current arrangements often defy logic. It has been mentioned that Thornton Hall, when built, will have a court system within it. Wheatfield is another example in this regard. Prisoners do not need to be transported long distances with all the attendant costs.

The Courts Service deserves some recognition for the manner in which it is dealing with certain issues, especially infrastructural issues. However, I have done some homework by talking to people who worked within the Courts Service but do not work there now, and I was aghast to find that many of the inefficiencies we have identified within other public services are just as common within the Courts Service. The culture of not doing things in a cost-effective way is just as evident, including the engagement of professionals. Often, those who command — or seek, depending on one's point of view — the highest fees are engaged, which prevents the service from taking on people in the most cost-effective way. It may be argued that the best often equates to the most expensive, and thus the most expensive professionals are the correct ones to engage. However, the reality from a business perspective is that this is not always the case.

I do not want to refer to the Courts Service in a derogatory way as a quango, but it is one of the agencies that was set up as an offshoot of the public service where Executive discretion no longer has an influence on what goes on. Many of these agencies become empires in their own right, and the interest of the taxpayer frequently does not get the priority it needs. With the significant downturn in public finances, which will be with us for many years to come, it behoves us to investigate every such body to ensure they are forced to operate to the highest standards of efficiency, cost effectiveness and value for money for the taxpayer.

Senator Eugene Regan: Just like the Government.

Senator Jim Walsh: Unlike——

Senator Eugene Regan: Good standards.

Senator Jim Walsh: Unlike Fine Gael, when it was in Government, and unlike the manner in which the legal profession in particular has treated the taxpayer through the tribunals and so on. People have no qualms of conscience whatsoever about sending bills of €2,000 to €3,000 per day for doing small amounts of work——

Senator Eugene Regan: The Senator agrees with me then.

Senator Jim Walsh: I agree with Senator Regan. It is absolute greed.

Senator Eugene Regan: The Government agrees.

Senator Jim Walsh: The greatest manifestation of greed we have seen in our society is from the legal profession, as the good Senator opposite will be fully aware.

Senator Déirdre de Búrca: I welcome the Minister and the opportunity to debate the Courts and Court Officers Bill 2009. Like Senator Walsh, I must admit to feeling at a slight disadvantage. I am not a legal practitioner and thus am not on the receiving end of some of Senator Walsh's criticisms, but I have been a litigant once or twice and a defendant in one or two minor cases and I was struck by the volume of people going through the courts. This obviously puts pressure on the court offices and the Courts Service.

Because I am not familiar with this area, I looked at the annual report of the Courts Service where I found that the functions of the service are wide ranging and important. It manages the courts, supports the Judiciary, provides services to court users, provides and maintains court buildings and provides information on the courts to the public. It is important that the service is working effectively and efficiently. However, as others have mentioned, we are facing difficult times with regard to our public finances, and the Courts Service will need to conduct its services with less money. We must try to ensure that whatever changes take place do not have a negative impact on the front-line services, particularly customer and courtroom services.

I welcome the Bill. While it is largely technical in nature, it will introduce much more efficient operational procedures into the Courts Service which will be put into effect at the new Criminal Courts of Justice when it is opened, although the date for that is still up in the air. It will streamline procedures for custody arrangements, prevent the duplication of duties by the Garda Síochána and free gardaí for operational duties.

The Bill alters some of the structures that were put in place by earlier courts legislation so that the service can prepare for the move to the Criminal Courts of Justice complex near the Phoenix Park. This will be quite an impressive facility with 450 rooms, 22 courtrooms and ancillary facilities, and vastly improved facilities generally for both staff and the Judiciary. It will enable the courts staff to operate in a single administrative office in support of all the courts, of which there are 22, including the Central Criminal Court, the Court of Criminal Appeal, the Special Criminal Court, the Dublin Circuit Criminal Court and the Dublin District Court. These will all be located in the new facility. This will allow for improved flexibility in staff arrangements, which will be important in years to come.

The Bill hopes to achieve administrative efficiencies by consolidating the court offices on a thematic, that is, criminal, basis. The District Court deals with approximately 450,000 cases per year while the Supreme Court deals with fewer than 500. Section 15 will allow the criminal aspects of the High Court office to be relocated to the Phoenix Park office while retaining a civilian jurisdiction in the existing office in the Four Courts. The Bill also requires that the head of each office, the senior sitting judge, be consulted before any such consolidated office can be established. Section 17 also allows for the administrative business of the Special Criminal Court to be dealt with by a nominated court office.

The remainder of Part 3 combines the court offices into the existing legislative structures. Essentially, the sections clarify that all previous references to a court office should be read in future as including a reference to the new combined office. Section 23 provides that there be no disruption to court business or filing of documents where court offices are being reconfigured and jurisdiction is being transferred. This is important to avoid the kind of upheaval that can sometimes occur when there is a reconfiguration of services.

Some of the other technical changes made by the Bill, as others have mentioned, are in the area of bail recognisance. I was obliged to educate myself about bail recognisance which is an obligation or bond made before a court for a person to perform some act, for example, to appear before a court or ensure the attendance of an accused person at a trial.

The various courts have slightly different rules as to who can enter a recognisance. A bond or recognisance does not always have to be entered by an individual. Where it is required from a person, the judge may accept an instrument executed by a solvent person, corporation or insurance company. In the context of bail, recognisance will be estreated, that is, forfeited on foot of a special procedure in circumstances where the person fails to appear and a warrant for arrest is issued or the person is brought before the court and the court is satisfied that he or she has contravened the terms of the recognisance.

Under the Criminal Procedure Act 1967, recognisances may be taken by a District Court judge, a District Court clerk, a peace commissioner, the governor of a prison or a prison officer designated by a prison governor. The Act provided the District Court with the options of either requiring the accused to enter a judicially determined recognisance into court or of refusing bail and remanding him or her into custody. Section 18 of the Criminal Justice Act 2007 allowed the District Court judge a third option of a non-monetary recognisance, in recognition of the circumstances faced by many people in this situation. However, the wording of the Act gave rise to the potential interpretation that only a District Court judge could take a non-monetary recognisance. An amendment in this Bill allows for District Court clerks to receive this form of recognisance where the court has admitted a person to bail as part of being remanded or sent for trial or sentence. Effectively, it allows for the administrative act of taking a non-monetary recognisance to be undertaken by a District Court clerk rather than a judge.

The Bill also provides for changes in the area of temporary custody. There has been a gradual shift from employing gardaí for escort duties and transfers of prisoners for court appearances are now largely carried out by the Prison Service escort corps, which is based in Cloverhill Prison in west Dublin and has a staff of 156 and a fleet of 52 vehicles. However, occasions arise when gardaí have to resume escort duties. Part 2 of the Bill aims both to resolve these jurisdictional issues and reduce the resource burden of escorting prisoners to and from prisons in advance of the completion of the Central Criminal Court complex by allowing custody facilities to be managed by the Prison Service. While the default position is that prisoners will remain under the jurisdiction and physical control of the Prison Service officers on their way to and from court appearances, section 6 of the Bill provides that a prisoner may lawfully be placed temporarily under the control of a garda or a prison governor in a court house or place adjacent to a court house.

Section 11 of the Bill provides that the holding area officer may use such force as is necessary to carry out his or her duties in respect of temporary custody. Section 11(2) provides that the series of rules dealing with all aspects of prison regulation will only apply so in so far as they deal with the regulation of searches conducted in the temporary holding facility. Section 12 also provides that the Minister may make regulations on the standard and procedures relating to the orderly management of any place in which a person is held. I share Senator Bacik's

[Senator Déirdre de Búrca.]

concerns about this section and ask for clarification on it. If it is intended to introduce safeguards for prisoners who have not yet been prosecuted or found guilty or who may be appearing as a witness, it is important that we provide proper safeguards for their treatment while in temporary custody. Otherwise, I welcome this technical but important Bill, which will achieve greater efficiencies and cost savings in the Courts Service.

Senator Rónán Mullen: Ba bhreá liom fáilte a chur roimh an Aire Stáit. Tacaím leis an mBille seo. Creidim go féidir linn leasuithe a dhéanamh a bheadh ar leas an phobail ó thaobh riaracháin agus costais a sparáil de.

The Bill makes provision for the following three matters: a custody facility at the new criminal courts of justice complex in the Phoenix Park to be managed by the Irish Prison Service and for similar custody facilities at other courts, the establishment of a combined courts office to enable courts staff to operate in a single administrative office in support of all courts and to facilitate the acceptance of bail recognisance by District Court clerks in relation to persons remanded on bail in the District Court.

The first matter, custody facilities at the courts, deserves further study. Part 2 of the Bill will allow the Prison Service to manage a central holding facility for people in custody and have control over all persons held, including those who have not been committed to prison. The Bill allows for the temporary transfer of custody to a holding area officer only for the purpose of facilitating a court appearance by a person or the holding of a court hearing involving that person. The Prison Service will be responsible for the custody of persons in holding cells in the courts who have until now remained in Garda custody.

This might reduce the Garda's reliance on station bail with the result that more accused persons might be held in custody and brought directly to court. As charging and court appearances might now occur very quickly even in minor offences, this could put unfair pressure on the accused and restrict his or her opportunities for more detailed consultations with legal advisers. From the point of view of ensuring due process, people brought directly to court for summary offences, such as threatening, abusive or insulting behaviour, failing to comply with a direction of a Garda or being drunk and disorderly, may still be in an animated state when brought before the courts. This might result in more unsympathetic judgments than would occur where the same people are sober, washed and contrite. In minor offences, an accused may lack a genuine opportunity to find and persuade character witnesses to testify and gather more impressive damages or poor box contributions. The Minister of State may hold a different view but I raise these issues because I want to see an efficient system which guarantees due process and fair access to justice.

It is not clear to me how the provision for a combined courts office will improve matters. For example, how will a new High Court administrative office change the running of the High Court?

The provision on acceptance of bail recognisance by District Court clerks is phrased in almost exactly the same terms as the amendment to section 22 of the Criminal Procedure Act 1967 made by the Criminal Procedure (Amendment) Act 2007. Why is the same provision considered a necessary part of this Bill?

Minister of State at the Department of Justice, Equality and Law Reform (Deputy John Curran): I thank Senators Regan, MacDonald, Bacik, Walsh, de Búrca and Mullen for their contributions to Second Stage on this technical but important Bill. I acknowledge the support expressed on all sides for the Bill. While a number of issues raised by Senators can be more thoroughly addressed on Committee Stage, I wish to respond in a more general way.

The provision on bail recognisance is intended to avoid interruptions to the flow of business. It allows for situations where people require short extensions of time to make their bail arrangements.

It extends to the District Court clerk the power to take the bail recognisance, which means the party would not have to return to interrupt the court, in other words, the procedure could be completed administratively in a back office.

I will not address all of the points raised by Senator Bacik. On the issue of victims, about which she spoke in detail, the physical environment for victims going to court will be significantly improved, which is important. The Senator also referred to custody standards. These standards depend on the status of the detained, by which is meant that if a person is detained as a prisoner, he or she will be subject to the standards applying under the prison regulations, while a person in Garda custody will be subject to the Garda custody regulations.

The Senator also referred to the amendment tabled by Deputy Rabbitte on Committee Stage in the Dáil which was rejected because it referred to a prisoner being in the custody of a member of the Garda Síochána. This would never be the case as a prisoner may only be in the legal custody of a governor. I understand this explanation was accepted by Deputy Rabbitte.

Senator Bacik also asked about temporary custody. A time is not established in the Bill. Temporary custody only arises to facilitate a person's appearance in court. Once the court process is completed, the person detained will either be released on foot of a court order or returned to the person in whose custody he or she was originally. Equally, should the court hearing not proceed, the temporary custody will cease and the person will be returned to the original custody. As the Senator correctly noted, the Bill sets out clearly the start and end of temporary custody periods.

Senator Ivana Bacik: I thank the Minister of State for clarifying the matter.

Deputy John Curran: Senator McDonald referred to Garda time being wasted and the need to free up Garda services. I understand the Garda Inspectorate has examined this issue and recommended the extended use of the court presenters. The obvious benefit of such a decision would be to address the issue raised by the Senator.

Senator Walsh raised many issues.

Senator Eugene Regan: Most of them were irrelevant.

Deputy John Curran: He spoke, for example, about inefficiencies in the Courts Service. The service has made significant strides in improving levels of efficiency and service. I referred to some of the improvements implemented in the past decade. The Judiciary is directly involved in developing and implementing these improvements and modernisation measures.

Senators will be familiar with the phrase, "Much done but more to do". The Courts Service is engaged in a wide-ranging efficiency review which focuses on all the businesses in which it engages. I understand the review will be completed at the end of this year or thereabouts.

The purpose of the Bill is to streamline the management procedure and provide for the efficient operation of the new criminal court justice complex. While Senators support the Bill in broad terms, I recognise that Senator Bacik has indicated her intention to introduce one or two amendments which the House will examine in detail on Committee Stage. The Bill also provides for a unified staff structure and builds on the modernisation and streamlined management structures introduced in the past decade by the Courts Service. This measure is timely in the light of the current financial position and the need to ensure maximum efficiency in the deployment of limited resources, including staff.

[Deputy John Curran.]

I am pleased Senators have recognised the necessity of the legislation and are broadly supportive of it. I look forward to returning to the House, perhaps next week, to deal with Committee Stage.

Question put and agreed to.

Acting Chairman (Senator John Paul Phelan): When is it proposed to take Committee Stage?

Senator Jim Walsh: On Tuesday next.

Committee Stage ordered for Tuesday, 10 November 2009.

Acting Chairman: When is it proposed to sit again?

Senator Jim Walsh: At 10.30 a.m. on Monday, 9 November.

Adjournment Matters.

Road Safety.

Senator Cecilia Keaveney: I thank the Minister for Community, Rural and Gaeltacht Affairs, Deputy Éamon Ó Cuív, for coming before the House to discuss the issue I raise which is cross-departmental in nature. In giving notice of the matter I deliberately asked how much money had been raised from fines imposed on those found not to be in compliance with the legal requirements for cyclists. While it may appear from the wording used that I am anti-cycling, the opposite is the case. If, however, cycling is to be safe, people who exercise their right to cycle must accept the responsibility to be visible. When cyclists are visible, they and other road users, pedestrians and drivers, will be protected.

In response to an inquiry I have been informed that cyclists are legally required to have a white light on the front of their bicycle, a red light at its rear and to wear a reflective jacket. I am pleased the new Dublin bikes scheme complies with two of these three requirements. While the bicycles have lights, front and back, I am not aware of any steps to ensure users wear a reflective jacket.

The Garda in County Mayo, specifically Foxford, has adopted a softly-softly approach to cyclists who are not in compliance with road safety regulations by rapping them on the knuckles and asking them to wear a reflective jacket. I welcome this development because the Garda has not taken the issue of road safety for cyclists sufficiently seriously.

The reason I raise the issue of fines is to bring attention to non-compliance by cyclists with road safety regulations. In the past, when little technology was available, a dynamo could be used to generate light for cyclists and the more one pedalled, the more light the device produced. Dynamos produce light, even when a bike is being pushed. In this era of advanced technology I fail to understand the reason many bicycles are manufactured without any form of lighting. We should work together in the European Union to ensure manufacturers of bicycles are required to meet basic safety requirements. No one uses a bicycle at home or in a community hall. All bicycles are used outside. With the hours of darkness becoming longer, it is more important than ever that cyclists are visible.

Government strategy is to encourage more people to cycle, while ensuring cycling is safe. However, I have raised the issue of safety requirements for cyclists on a number of occasions to no avail. It was for this reason I used controversial terminology to draw attention to the

issue. I hope the relevant authorities will endeavour to ensure manufacturers will be required to fit lighting to bicycles.

Minister for Community, Rural and Gaeltacht Affairs (Deputy Éamon Ó Cuív): Táim ag freagairt anseo ar son an Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí nach bhfuil in ann a bheith i láthair.

The Government attaches great importance to road safety and is committed to increasing the safety of all those who use our roads. Current Government policy is set out in the road safety strategy for 2007-12 which was prepared on behalf of the Minister for Transport, Deputy Noel Dempsey, by the Road Safety Authority following public consultation and direct engagement with key stakeholders. It sets out 126 specific measures, who is responsible for their implementation and the completion date. Its overall objective is to reduce fatalities to 60 fatalities per million of population, or 252 per year. We are making steady progress towards that objective. While every death is one too many, the lowest number of road fatalities, some 279, was recorded last year. To date this year, there have been 42 fewer deaths than in the same period last year.

An Garda Síochána rigorously enforces the legislation in place to ensure errant road users, including cyclists, who place their own lives and those of other road users at risk are made amenable for their actions. Road traffic legislation, including legislation on the use of bicycles on roads, is the responsibility of the Department of Transport. The legislation imposing lighting requirements on pedal cycles is contained in regulation 29 of the Road Traffic (Lighting of Vehicles) Regulations 1963.

Offences relating to bicycle lighting are dealt by way of court summons. With regard to 2003-07, the most recently available Central Statistics Office figures show a total of 2,882 offences leading to proceedings under legislation for offences relating to bicycle lighting, including offences relating to bicycle front and rear lamps and reflectors. These resulted in 385 recorded convictions. Specifically, with regard to prosecutions for having no front or back light on a bicycle, the Minister is informed by the Courts Service that in 2008 there were 19 prosecutions. In regard to these prosecutions, a total of €1,935 was imposed in fines.

The EU sets construction standards for all motorised vehicles by setting minimum standards for construction that must be met before vehicles enter into service. In addition to entry into service requirements, Irish legislation sets in-use requirements for vehicles under the Construction, Equipment and Use Regulations. These requirements include lighting requirements for pedal cycles and are enforced by An Garda Síochána. The EU continues to set standards for the construction of new bicycles under the general product safety directive which are adopted in Ireland, thereby promoting the construction of safe bicycles. Ireland will continue to contribute to the development of further such EU initiatives.

Enforcement of the law relating to cyclists is clearly important. However, long-term and lasting change in behaviour will be brought about only by bringing cyclists, pedestrian and all road users to the realisation that how they behave is vital to ensuring their safety. Cyclists are particularly vulnerable users, together with pedestrians, motor cyclists, young children and older people. Over the period 1997-2007, 4,353 people were killed on Irish roads. Out of this total, 22% or 958 were pedestrians, 11.6% or 503 were motorcyclists and 3.5% or 155 were cyclists. There must be increased awareness among cyclists of their responsibilities in regard to being seen and adopting safe cycle practice generally. However, crucially there also needs to be greater awareness among motorists, be they HGV, bus or car drivers, about the need to behave responsibly towards cyclists.

[Deputy Éamon Ó Cuív.]

Awareness is a long-term project. It is not simply a matter of running an advertising campaign. To that end, the Department of Transport published an ambitious national cycle strategy last April which details 109 individual but integrated actions which will be taken over the coming 12 years to deliver a culture of safe cycling in Ireland. It addresses all issues relevant to cycling with the intention of creating a real culture of cycling. It deals comprehensively with the issue of safe cycling, including the need for basic cycle training and behaviour and awareness of road users towards the needs of cyclists.

Senator Cecilia Keaveney: I thank the Minister for the response. I draw his attention to the fact that I walked for two miles recently and kept an account of the number of bikes which passed and out of the 50 bicycles which passed me, 30 had no front or back light. There were 19 prosecutions for this offence last year. I walked past St. Stephen's Green shopping centre where there is a railing full of bicycles and eight out of ten had no front or back lights. I am not necessarily blaming the cyclists, but it is one thing to have cyclist education and another to have compulsory lighting on bicycles. I would like to see our strategy coming from both sides and that manufacturers and cyclists would be prompted to use lights. It is one thing to buy a bicycle with no light, but another matter entirely to buy one with a light which one does not use. Technology must have advanced sufficiently to overcome the reality of what is currently outside the door.

RAPID Programme.

Senator Jerry Buttimer: Cuirim fáilte roimh an Aire.

I am pleased the Minister, Deputy Ó Cuív is here. As he knows quite well, his Department has been in the firing line since the publication of the Report of the Special Group on Public Service Numbers and Expenditure Programmes, commonly known as an *bord snip* chaired by Professor McCarthy. I tabled this matter as somebody who is deeply immersed in the community and a former member of an AIT for RAPID. Having spoken to people in disadvantaged areas, I found they are concerned about the prospect of the RAPID scheme being disbanded. I understand they were talking in a vacuum because the budget has not yet been published and we have had no Government decision on the McCarthy report. However, it is important that we hear the direction we can expect the Government to take in the context of disadvantaged urban areas which are involved in the RAPID scheme.

The development of communities has happened as a consequence of RAPID. Its establishment allowed for investment to be made in tandem with councils and other agencies. It benefitted communities through empowering people and giving them an opportunity to build, strengthen and enhance not only the public realm but their lives, their social and educational skills and their opportunities. The value of RAPID was missed completely by the McCarthy report. One cannot quantify in monetary terms the investment RAPID has provided to communities, but it is fair to say it has improved the quality of life in them. I have been a public representative since 2004 and have been very involved with RAPID and see and welcome its benefits. The key point is that it has given people a new lease of life, a new way forward and a new road map.

Past generations of people experienced a revolving door which went nowhere. The RAPID educational opportunities focused on self-enhancement, self-empowerment and self-awareness which, along with the physical projects, allowed for immeasurable work and progress to be made. I hope the intention is not to abolish the programme because that would be a grave mistake and would send out the wrong message. I understand and appreciate that we are in difficult economic times and that cutbacks have to be made in certain areas and situations.

However, telling the most vulnerable in our society that the cuts start with them sends out the wrong message to communities.

I passionately believe that the Minister is as genuine in his commitment to RAPID as he has been in the past. I say that with honesty because I am the spokesperson on this area for Fine Gael in the Seanad. I know the involvement he and the Minister of State at the Department of Community, Rural and Gaeltacht Affairs, Deputy John Curran, had and continue to have in it and that is why it is important to set out our stall early before the budget to give people hope. People have said: "Since RAPID came board the effect on the community has been absolutely astounding. You can feel a buzz and the community is very optimistic". Other people said, "We have a springboard project, new playground, sports facilities have been improved and new facilities have been developed, and after years of neglect we are seeing changes to the physical environment in partnership with local communities". Another person told me:

I can now talk directly to the superintendent in my area, explain to him some of the problems we are experiencing and we can work together to create solutions. I understand he cannot solve all our problems but we are working together and have made a good start. When we started the safety forum we had two or three pages of problems. Now each week we are down to half a page. That is real accountability and success.

These are quotes from the Togher and Mahon RAPID areas in Cork, with which I am familiar. I praise the people of Togher and Mahon who embraced RAPID and were encouraged by the Government and Cork City Council to do so.

The McCarthy report, if it is implemented, will condemn people to a life of struggle without cause for optimism. They will be at the last port of call for funding. I look forward to the Minister's reply and hope it will be positive. We must give a message of hope and optimism, and the people of Togher and Mahon in Cork city want such hope and vision continued through the partnership which RAPID has brought about.

Deputy Éamon Ó Cuív: Cuireann sé áthas orm bheith in ann freagra a thabhairt don Seana-dóir. Ba mhaith liom buíochas a ghabháil leis as ucht na ceiste a ardú.

As the Senator is aware, I am passionately committed to the RAPID programme and I believe it is the first serious attempt to engage the most deprived communities in their own future. What often characterises disadvantaged communities is that quite large sums of State expenditure have been spent on them but the people living in the communities have never had a real say in what happened. I am delighted to have this opportunity to put on the record of the Seanad the future position of the programme.

As Senators may be aware, the programme was first launched in 2001 with the aim of prioritising and co-ordinating State assistance in some of the most deprived areas. Originally, 25 areas were targeted and this number has increased to 51 as the programme has gained momentum.

A central tenet of RAPID is that priority attention is given to designated areas by focusing State resources available under the national development plan. The programme provides economic, social, cultural and community benefits to the areas covered. There are a number of special measures built into RAPID to ensure the programme works effectively. For example, each RAPID area has a dedicated area implementation team as well as the co-ordinator. This team brings together local State agency personnel, the local partnership company, drugs task forces and residents of the local community to prepare a plan identifying the needs of each area.

One of the most important innovations of RAPID has been the stipulation that people from local authority estates must participate in the programmes and activities that help shape their

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community. At least three local community representatives participate on each RAPID team on behalf of their communities. These community representatives are local residents elected by their fellow residents in the community. I see these people as the real owners and drivers of RAPID. The community representatives know the position locally and know what needs to be done to tackle and solve local problems. The Department and agency members of the RAPID team must listen to and engage with the community representatives when they bring issues to the table.

An independent evaluation of the RAPID programme was commissioned in 2006 which recommended that to develop and enhance the programme through the lifetime of the 2007-2013 national development plan, it should be focused on seven strategic themes: community safety and anti-social behaviour, family support, youth support, physical environment, education, health, and employment and training. This recommendation has been pursued and the strategic themes have been established across RAPID areas.

Separately, to ensure the continued relevance of the programme and the designated RAPID areas, I commissioned through Pobal a study to develop small area deprivation indices based on an analysis of the most recent census data. The availability of small area statistics from the most recent census gave us the opportunity to look more closely than ever at levels of deprivation throughout the country to see if there were particular areas that through demographic change in recent years should now be included in the RAPID programme. I initiated this review last year because from my experience of visiting communities throughout the country, I felt that some areas that were not in the programme might have become eligible.

Based on the study, I proposed the designation of five provincial towns as new RAPID areas. This was accepted by Cabinet in May of this year. The new RAPID towns are Ballina, County Mayo, Dungarvan, County Waterford, Enniscorthy, County Wexford, Mullingar, County Westmeath, and Rathkeale, County Limerick. I am visiting each of these towns to hold a public information meeting on the programme. We held the first public meeting in Ballina on Monday evening and this successful event was attended by more than 100 people from the town, including local residents, public representatives, educators, State agency representatives and county council staff. I will visit each of the other four towns over the next few weeks and I look forward to our discussions there also.

The Government decision of May last also contained a formal commitment from each relevant Minister to the RAPID principle of prioritising resources and the provision of integrated services in designated RAPID areas. There was a renewed commitment by Ministers to the integrated delivery of services through, in the first place, committed and dynamic membership by their Departments and agencies of RAPID area implementation teams, even where other Departments take the lead role.

Senators will also be aware that the revised programme for Government of October 2009 expresses the Government's commitment to "continue to develop the RAPID programme that is giving local communities in the most disadvantaged urban areas a real voice for change for the better in their own communities". This is a priority. We will continue to tackle social disadvantage in the only way that works in the long term — positive action and strong community involvement.

We are in this for the long haul. It is unacceptable to us that children growing up in some areas of the country cannot expect the same level of educational attainment as their peers in other areas. We will continue to work towards equality of opportunity for all our children and we will continue to prioritise initiatives like the RAPID programme that make a tangible improvement to people's everyday lives.

I hope this puts the Senator's mind to rest once and for all because there is no intention to cease the RAPID programme. If we were to do so we would be doing a great wrong. The Senator has put into words most eloquently the work which the communities involved have indicated the RAPID process brings about. It gives such communities a real say and a place at the table in discussing their own development.

Senator Jerry Buttimer: I thank the Minister for his reply. I welcome his announcement that RAPID will not be eliminated and I am glad that element of the McCarthy report has been discarded. It is important to acknowledge the work being done across disadvantaged areas and I am delighted with the response.

National Asset Management Agency.

Senator Liam Twomey: I welcome the Minister to the Seanad. Before I speak on the matter, I should say that I grew up only two miles from where Michael Collins was born and reared. Many members from one side of my family would have spoken highly of the man in time and some of them even accused the Minister's grandfather of being responsible for his demise. They were the more passionate element of that family. When they spoke about Michael Collins they usually spoke of him as commander in chief of the IRA or the Free State army. Michael Collins had organisational abilities and when we recently had a discussion on the role of Michael Collins in Irish life, we focused on his role as Minister for Finance and how he established the national loan bonds between 1919 and 1921. He did this to legitimise the provisional governments of the first and second Dáileanna by collecting funding for those governments from the people.

Although the circumstances are remarkably different today, NAMA and its special purpose vehicle, SPV, have a serious identity crisis for the people. Rather than inviting the privileged few to become the effective owners of NAMA, the Minister should consider establishing our own national loan bonds that would allow Irish citizens to purchase units in NAMA's special purpose vehicle. An Post could easily act as agent, as it did for the privatisation of Telecom Éireann, and the units could be sold for €100.

This would allow each citizen to participate in ownership of the SPV. There might even be a counterfoil attached to each of these units in order that the purchaser, or a person on behalf of the purchaser, could nominate people to sit on the board of NAMA as directors, rather than have the Minister extend an invitation to persons who consider they are qualified. Again, it would give a role to citizens to nominate the directors and strengthen the legitimising of the SPV.

We have concerns about NAMA which is greatly complex. Few of us can say how it will turn out as none of us possesses a crystal ball. My party and I have enormous concerns about it and what it will do. I ask the Minister to give me his views on giving ownership of NAMA to citizens through a scheme such as this. It might help them to understand better NAMA and its role, as it is clear it is the only option the Government is prepared to take. Perhaps in ten years time we might see whether it was a good decision and in the coming decade people might consider they have a role. I am interested in hearing the Minister's views.

Deputy Éamon Ó Cuív: I thank the Senator for raising this issue. It might surprise him to hear that when I started off as a young co-operative manager many years ago in Cornamona, it was impossible to get money from the banks. Therefore, some things do not change. I applied to the ACC for a loan on behalf of the co-operative and decided the second time round that I would not leave anything to chance. Therefore, I rang the chairman of the ACC who happened to be called Michael Collins and a nephew of the Michael Collins to whom the Senator referred.

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He also had been a very good friend of my mother when they were children. I will always remember the day I got through to him in Clover Meats. When he came on the telephone, I started to explain who I was and what I was about, namely, that I was trying to raise some money for the co-operative. However, he interrupted me. “Tell me,” he said, “Are you Emer’s son?” I said I was and he replied, “Tell your mother I was asking for her.” Then he asked me my business and I must say the co-operative got its loan, is still going strong many years later and that its offspring have created many jobs. Any notion that there was bad blood between the de Valeras and the Collins family, certainly on our side, would be very wrong. My personal experience of all the Collins family——

Senator Liam Twomey: I would say most would accept they were great friends and that it was unfortunate what had happened.

Deputy Éamon Ó Cuív: These were friendships in the 1930s. I am happy to record in this Chamber that I always felt I owed a huge debt to Michael Collins Junior because I honestly believe he sympathised on what we were trying to do and ensured we got the money. I am thankful his confidence was justified.

I wish to set out the circumstances leading to the establishment of the NAMA master SPV and its proposed role in the NAMA process. The Minister for Finance made it clear on a number of occasions prior to the publication of the preliminary decision that discussions with EUROSTAT were ongoing to determine the accounting treatment of the NAMA debt. I make the point also that the draft legislation has always envisaged the establishment of NAMA group entities such as the proposed master SPV.

The importance of keeping NAMA bonds off balance sheet should not be taken lightly. As a small country, our having our asset relief mechanism on balance sheet while other countries have theirs off balance sheet could create significant anomalies when international market analysts or investors are comparing Ireland to others as regards EUROSTAT debt and deficit statistical returns. The Minister for Finance has consistently stressed that the statistical treatment does not change the fact that operations of NAMA will lead to an overall increase in the number of the State’s potential liabilities. Neither should it be overlooked that these liabilities will be matched by a countervailing asset holding. Therefore, we have never suggested NAMA’s being off balance sheet implies no net potential liability to the State. On this point, the Government will continue to take the necessary measures to stabilise the position of the public finances and protect the State’s ability to fund itself. It was never suggested NAMA contained no risk. However, the Bill contains risk sharing mechanisms such as part-payment in subordinated debt and the imposition of a tax surcharge on the participating financial institutions to protect the citizens of the State should NAMA, including this SPV, make a loss on its winding up.

How will the master SPV work? It is intended that a master SPV will be established by the NAMA board to conduct the purchase, management and disposal of loan assets which have been identified and valued by NAMA. The master SPV will be a separate legal entity and jointly owned by private investors who will own 51% of its ordinary equity and by NAMA which will hold the remaining 49% ordinary equity. The subscribed capital of the master SPV is likely to be €100 million which has been accepted by EUROSTAT as being appropriate. The master SPV will be run with the objective of making a profit on the purchase and management of the assets it acquires from the financial institutions. This will be for the overall benefit of taxpayers and the potential return to private investors is capped annually and at maturity. If the master SPV makes a loss in its lifetime or is wound up, the equity invested in the master SPV and associated undeclared dividends will be lost.

Senators should bear in mind the following important points. A detailed legal shareholder agreement will be put in place to ensure that at all times the NAMA board will have a veto over all the master SPV actions and decisions. This will protect the NAMA board which has significant responsibilities but also the interests of all Irish citizens. The Minister for Finance has indicated he intends to issue a direction to the board of NAMA that not a single decision should be made or allowed to be pursued by the master SPV which will not be in the best interests or in line with achieving the objectives and purposes of the NAMA legislation. In addition, the use of private investment in this way is not unprecedented. It will bring the Government accounting debt treatment of the Irish asset relief measure into line with other European financial stability and relief measures.

Following concerns raised by Deputies on Committee Stage in the Dáil to have the NAMA SPV and group entities addressed in more detail in the legislation, the Minister for Finance has made a number of alterations to the Bill. The changes confirm that certain provisions explicitly apply to NAMA group entities, including the master SPV. For example, amendments made ensure the Prevention of Corruption Acts will apply to all directors on the boards of NAMA group entities which include the master SPV and that duties applying to NAMA board members will also extend to the boards of NAMA group entities. In addition, the detailed reporting requirements in Part 3 of the Bill will also specifically apply to the activities of NAMA group entities.

The decision in respect of selection of an investor or investors is a matter for the board of NAMA. The legislation provides a robust process for the appointment of NAMA board members, requiring that they have senior level experience and expertise in relevant areas. The Minister for Finance has indicated that he will consult the Opposition leaders on appointments to the board in the interests of creating all-party confidence in the board. It will then be an executive matter for the expert board to select the appropriate investor or investors of high repute. Having said this, I expect the board of NAMA to have a preference for large, institutional, long-term investors such as pension funds or large insurers.

A major difficulty I see relating to the Senator's proposal would be the logistical challenge involved and the likelihood that the capital would not be raised in time to have NAMA up and running as projected under the draft NAMA business plan. Having NAMA operational as soon as possible is critical to addressing the threat posed by certain portfolios of risky assets to the Irish financial system, thereby ensuring these institutions can provide much needed credit for the economy. This could not be guaranteed if the Senator's proposal were accepted. We have seen how perceived potential delays have received negative commentary in the domestic and international media and the resulting reported negative market sentiment towards the NAMA proposal on foot of this. On that basis, I thank the Senator for his proposal but cannot support his motion.

Senator Liam Twomey: That is short-sighted. The Government should have gone ahead with a proposal like this because it would bring people on board. Overcoming the time delay and logistics issues would be straightforward if the Government had the will. The most appropriate investors and those of highest repute are our citizens. International and domestic media perception would be positive if it looked like the people of Ireland were buying into the Government's proposal to establish an SPV to run NAMA.

Rather than dismissing our proposal so dispassionately, perhaps the Minister for Finance should have taken it on board and made it work. The citizens would be the best people to involve. Other vehicles to manage the €51 billion could easily have been established. The amount could have been taken out of the Government's funds and, as the units were sold off to our citizens, the exposure would have lessened. If all the units were not taken up, inviting

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international and other investors to take up the remainder would have been easy. Encouraging people to buy into NAMA in this way could have been easy, but it is regrettable that, according to the Minister, such an opportunity will be missed.

Deputy Éamon Ó Cuív: As is obvious from my reply, there is a risk element. For citizens with small savings, it is better to avoid risk. If people want to invest, they can invest in the post office, which is Government run, if they want to help the Government. People are more than welcome to do so. I do not see the great advantage in encouraging people who are not professionals to take risks with their money when they could make the same contribution to the Government through risk-free investments.

It is tragic that some people I know got bad advice in the past four or five years. I always advise my constituents to take no risks if they have few means. However, the people in question invested in bank shares and so on, but people of low means cannot afford such risks. They could have opted for a smaller return and been much safer. If the Senator wants to encourage people to take ownership, the best way to do so is by buying fixed return Government securities.

Senator Liam Twomey: Some people would understand the high risks involved and would still like to participate in a scheme that is fundamental to our financial, political and economic systems. People have taken risks and been burned, but they were also burned in the purchase of their houses after the comments of the former Taoiseach. I do not underestimate the Minister's comments, but some people who would genuinely like to be a part of this feel as if they are being excluded from NAMA's ownership and the future of our economic system. If the Minister is dismissing their ability to understand it and their opportunity to own it in favour of large investors, I suppose we must accept it.

Deputy Éamon Ó Cuív: I am delighted because the Senator's proposal is a significant vote of confidence in NAMA by his party. I welcome this after a long and comprehensive debate. People are converging on NAMA being the way out.

I believe in the theory of proportionate risk. One must consider two elements when taking a risk, the first of which is knowledge. Professional investors are always in a better position to make a judgment. Second, the risk multiplied by the proportion of one's total resources is an important equation. Those who are of little resources and take high risks are always the ones to lose. I have outlined the position and we believe that our decision is prudent and right.

Senator Liam Twomey: Irrespective of my party's views on NAMA, that the Minister is prepared to reject this proposal shows the Government's lack of confidence in its own proposal.

The Seanad adjourned at 3.55 p.m. until 10.30 a.m. on Monday, 9 November 2009.