



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

# SEANAD ÉIREANN

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

*Thursday, 3 December 2009.*

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# SEANAD ÉIREANN

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*Déardaoin, 3 Nollaig 2009.*  
*Thursday, 3 December 2009.*

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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Paidir.*  
*Prayer.*

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## **Business of Seanad.**

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

The need for the Minister for Finance to make a statement on the provision of funding for Cork City Council towards the renewal of quay walls.

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

The need for the Minister for Finance to prioritise Civil Defence for funding and resources in the budget on 9 December.

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

To ask the Minister for Transport, in view of the commitment he gave at the meeting of the Joint Committee on the Implementation of the Good Friday Agreement in July to raise the issue of the Enterprise train service at the North-South Ministerial Council meeting in November, if he will give an update on the progress made at that meeting.

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, Houses of the Oireachtas Commission (Amendment) Bill 2009 — Order for Second Stage and Second and Subsequent Stages; No. 2, motion re Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009; and No. 3, statements regarding the Report by the Commission of Investigation into Catholic Archdiocese of Dublin. It is proposed that No. 1 shall be taken at the conclusion of the Order of Business. Spokespersons may speak for seven minutes and all other Senators for five minutes each. Senators may share time by agreement of the House. No. 2, Motion re Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 shall be taken at the conclusion of No. 1 but not before 2 p.m. and shall conclude not later than 3 p.m. Spokespersons may speak for five minutes and Senators may share time. The Minister shall be called for concluding comments at 2.50 p.m. No. 3, statements regarding the Report by the Commission of Investigation into Catholic Archdiocese of Dublin, shall be taken at 3 p.m. and adjourn not later than 5.30 p.m. There

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shall be a sos from 1 p.m. to 2 p.m and, if not concluded, No. 1 will be taken at the conclusion of No. 3.

**Senator Liam Twomey:** I propose an amendment to the Order of Business. I call on the Minister for Finance, Deputy Lenihan, to make a statement to the Seanad regarding the partnership talks and what is happening.

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

**Senator Alex White:** Hear, hear.

**Senator Liam Twomey:** If the Minister is in a position to make a statement to the Fianna Fáil parliamentary party then he should be in a position to make a statement to Seanad Éireann as well. The Minister should be called to the House and there should be a full discussion on the matter. It has been announced there will be cuts to child benefit. The Minister for Health and Children, Deputy Harney, announced there will be 6,000 fewer people working in the health services. The Tánaiste announced that she has agreed there will be more than 400,000 people on some form of unemployment benefit, out of a work force of 2 million. That is not 12%, it is 20% or one in five people who are guaranteed to be on some form of unemployment benefit next year. If there was a dumbstruck look on the faces of Mr. Jack O'Connor and Mr. David Begg when they came out of Government Buildings, it was equalled by the dumbstruck look on the vast number of people in the public and private sectors when they heard the outcome of those talks in Government Buildings.

We have always discussed the credibility of the Administration of this country but it was not helped with the fudge and with what took place yesterday. It is time the Minister for Finance, Deputy Brian Lenihan, or the Taoiseach came to the House and made a clear statement on the exact nature of the agreement between the unions and the Government. Unbelievable harm has been done to our credibility. I am very keen to know what was said by some of the European finance ministers to the Minister, Deputy Lenihan, when they read the outcome of the talks between the Government and the public sector unions on the wire. This is an issue of national importance and it is probably the most important issue on the minds of people at this moment. There was an acceptance by the vast majority of people within the public sector that a cut in public sector pay was coming, but the extent of that cut and how it would affect people was a matter for discussion among themselves. This fudge by the Government has thrown into disarray any possibility of sorting out the mess of the public finances. I seek a clear statement from the Minister on this issue as soon as possible.

**Senator Joe O'Toole:** It is interesting to note what has come to light in the past 24 hours. On top of everything we know, apparently developers are paying 20% tax on the vast gains and windfalls made through land speculation in the past seven, eight or nine years. Add to that the myriad tax breaks, capital gains tax write offs and other supports available and it is interesting to note what benchmarking was worth, that is, some 7.5%, to members of this House and various people throughout the public sector. This is small beer by comparison.

It is worthwhile reminding ourselves that no deal has been announced. Senator Twomey's remarks are quite right in the sense of the need to call for clarity but I do not understand why serious politicians are talking about a fudge. There has been no agreement and we are dealing with press leaks and no more than that. Deputy Richard Bruton was exactly right this morning when he said the deal must get the money for the Government. There is no point in working on press statements which state the deal is only worth €800 million or that it is not worth €1

billion. The talks must deliver the €1 billion plus savings they set out to achieve. That is the clear condition.

I wish people would take on board that the real prize is public sector reform. This deal must show the way, not only how to get from here to the end of next year, but how we introduce a transformation of the public sector. I appeal to the Taoiseach in this regard. I have no problem supporting what Fine Gael has called for and I believe it would be very helpful if the Minister would do what was asked. However, the Government must grasp the nettle. The transformation of the public sector will be more of a problem for Members of this House, Members of the other House and senior civil servants than for the trade unions. The trade unions will buy into it but I am unsure if the political courage exists to make it work.

I can provide chapter and verse on this matter. Year after year, I negotiated a staffing schedule for primary schools but year after year I have listened to people on both sides of both Houses who have tried to break that and who have sought a special deal for their school. We have now decided there will be 15,000 fewer people in the public sector from here on. That process begins today and it means there will be a reduction in outputs and a reduction in the number of people working in the constituencies and towns of every Member. Transformation must be made to work through greater productivity, flexibility and all of that but it can be done.

Yesterday, I received phone calls as well, mostly from disappointed public sector workers who face another cut in their wages. However, I also heard from people who explained that wards were shut in their hospital and that this was done supposedly to save money but that there are consultants and others standing by who are getting paid but who have nothing to do. This is the nonsense with which we must deal.

It is crucial that we must put in place change. Part of the deal must involve the establishment of an outside group, whether a commission or whatever, which will put in place, drive and make work public sector transformation. This is the best chance we have ever had to do so. The ball is at our feet. The problem will not be on the trade union side. However, there will be a problem with Secretaries General protecting their fiefdoms throughout the country. The problem will be with politicians also who are yellow livered and react to every phone call without making a stand.

This is something we can all do together but there is no easy way to do it.

**Senator Alex White:** The one thing to note is this cannot be done in two weeks and I stated as much on the Order of Business yesterday. It is crazy for the Government or anyone to believe this process of transformation can be carried out, negotiated and wrapped up in a period of ten days or two weeks of negotiations. That is nonsensical and it cannot be done. The reason that everything appears so shaky this morning and that the Government does not appear to be in control of the situation is, oddly enough, because it appeared to believe it could do this within a short period. As other speakers have noted, it cannot be done. This matter is manifestly urgent and it requires appropriate arrangements to be negotiated and agreed. I do not suggest that it should take months to do so. Yesterday, Senator Donohoe stated there has been an opportunity all year for these issues to be addressed but there were not. Now they are being addressed with a gun to the head one or two weeks before the budget. It is crazy to believe it can be done in this way.

There is a sense in which people question whether the Government is in control. Senator O'Toole referred to backbenchers jumping up and down in response to various pressures. There is a great job to be done and it simply cannot be done in a few days. I have stated previously that public service reform should take place. The matter should be put up to the

[Senator Alex White.]

trade unions, which should be brought into this process and they should be part of it and this nonsense of simply stating, “Take it or leave it” is no way to achieve that.

I am surprised there has been no opportunity to hold even a short debate in the run up to the Copenhagen climate change conference next week. The Leader might say he was not asked but it seems to be such an obvious issue. We should take the opportunity, even if it is only for one or one and a half hours next week, to have statements on this crucial issue. There is hardly a more serious challenge facing humanity than the issues to be debated, considered and, hopefully, agreed in Denmark next week. It is a pity there is no climate change legislation before the Houses. The Minister for the Environment, Heritage and Local Government referred to doing this in the spring. That legislation should have been prepared. Deputy McManus and Senator Bacik have prepared a Bill in respect of this matter, in which the Labour Party is keenly interested. Would it be possible for the Leader to make time available next week for a debate on this extremely serious issue?

**Senator Paschal Donohoe:** We know the people have lost confidence in the Government. However, it became crystal clear overnight and early this morning that the Government had lost confidence in itself. Everyone is aware that there is a once in a lifetime opportunity to tackle the difficulties facing the country. However, the Government has blown it and shown itself it to be out of touch with mainstream thinking in Ireland. It has also demonstrated that it is completely out of touch with how others view the country and the challenges, economic and otherwise, it faces.

I re-emphasise the points I made yesterday. First, the Government and the Houses have been discussing these issues for almost a year. Why then is a gun suddenly being placed against people’s heads? Why are we suddenly discovering that the Government does not have a budgetary strategy in place to tackle the crisis which has been ongoing for at least a year? Yesterday successive speakers on the Government side stated this would be a temporary or interim measure. They are not saying that this morning. I reiterate what I said yesterday, namely, that there will be nothing temporary about the cuts in jobseeker’s benefit or child benefit being proposed by the Government. I, therefore, second Deputy Twomey’s amendment to the Order of Business because not only do the people deserve an opportunity to understand what is happening, it is also vital for the future of the economy that the Minister clarify the position quickly and in this House.

**Senator Shane Ross:** I congratulate the three members of Fianna Fáil — Deputies Mulcahy, Mattie McGrath and Chris Andrews — who stated on “Morning Ireland” that they were sick and tired of the trade unions dictating both how the country should be run and how the budget should be framed. There is a message in this for everyone. The House is once again in the dark about what is happening and what will be contained in the budget. Certain people have been invited to Government Buildings and the Taoiseach is of the view that it is more important to tell them what is happening than it is to keep Members of the Houses informed in that regard.

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator Shane Ross:** I am sick and tired of people in this House paying tribute to the trade union movement, particularly at a time when the latter is bringing the country to the verge of bankruptcy. In view of the fact that next week’s budget is vital, it is depressing to see the Government once again jumping to the tune called by the trade unions. Decisions relating to the budget should be made by those who are democratically elected; they should not be made by those outside the Houses who do not have a mandate in this regard. Such decisions should also not be made by those who are threatening to bring the country to its knees by calling a

general public service strike. In recent days we were facing the possibility of such a strike happening.

In the face of what could well have been an empty threat on the part of the trade unions this week, the Government, in the words of Deputy Bruton, bottled it. In the light of the number of leaks that have occurred, we are faced with a situation where we do not know what will be the cost of this phantom plan. It appears, however, that what is proposed will fall so far short of the €1.3 million required, the Government is rebriefing everyone and trying to get them to focus on the overall figure of €4 billion. This is because it has given up on achieving the €1.3 billion in savings to be obtained from a reduction in public service pay.

This is not an acceptable way to govern. It is time the Government listened to its backbenchers who spoke out with a certain amount of courage earlier this morning, rather than listening to the Irish Congress of Trade Unions which does not have a mandate in the context of dictating what the budget should contain.

**Senator Paul Coghlan:** I strongly agree with Senator Twomey. I am sure almost every Member agrees with the sentiments he expressed. The Minister for Finance is a reasonable man who is always prepared to share his views with fellow politicians. If, as I understand to be the case, he is going to address members of the Fianna Fáil Party later today, I see no reason he should not address the Seanad. Even Fianna Fáil backbenchers perceive the proposal that unpaid leave among public sector workers is the answer to our woes to be complete pie in the sky. The proposal is completely unworkable and would lead to a shortfall of perhaps €600 million in the €1.3 billion savings required in the public sector pay bill. If progress is to be made in this area, there must be an element of pay cuts, in addition to the proposal relating to unpaid leave. As stated in recent days, in the overall context that figure of €1.3 billion is a mere stumble in the right direction. We have a long way to go in this regard. I hope the Leader will arrange for the Minister for Finance to come before the House in order that he might outline the position and indicate how it is intended to bridge the gap in the public finances.

**Senator Dominic Hannigan:** The Minister for Finance is putting the final touches to the budget. One area in which we should stand firm is overseas aid. In the past year there has been a disproportionate cut of 22% in the overseas aid budget, which is having a real impact on people's lives. One thing of which we can be extremely proud is the amount of

*11 o'clock* good work we do overseas in saving people's lives. The proposed cuts will have a real impact. Some of the Irish NGOs are pulling out of countries such as Angola as a result of the reductions that have been made. The Minister of State at the Department of Foreign Affairs, Deputy Peter Power, and I attended a presentation made by scout groups from east Meath and it is clear from what was said that there is a good deal of support for the concept that further cuts to the aid budget should not be made. I know many Fianna Fáil Senators share my views on this matter and, in the days before the Minister for Finance finalises the budget, I ask them to impress upon him the need to ensure no such cuts are made.

**Senator Labhrás Ó Murchú:** I compliment Senator Hannigan on the comments he made. It is important that we should always consider those who find themselves in even more difficult circumstances than the most vulnerable in this country. Even though it might not always be politically correct to do so, it is important that this matter should continue to be highlighted. I admire the Senator for putting himself forward in that regard.

On the negotiations taking place, there is always a danger that we will return to our bunkers and that the debate will become one of capitalism versus socialism. That is the very worst thing that could happen. On the Order of Business yesterday I praised the trade union movement and take the opportunity to do so again. In the main, it has always demonstrated maturity and

[Senator Labhrás Ó Murchú.]

responsibility. It is doing likewise during the current negotiations. One of the difficulties in the debate on this matter is that Members of these Houses and the public are not privy — nor can they be — to the sensitive negotiations taking place. We are, therefore, discussing certain matters without knowing whether they will come to pass. I hope general confrontation will be avoided. I do not regard the trade union movement's stance in this regard as threatening. Each group which has decided to organise itself and democratically select its own leaders is entitled to express its point of view. We will not find a solution to our problems if we decide to target a particular group and state what it is doing or has done is wrong. The position with regard to the Government is similar. It is endeavouring to do its best for all the people of the country. In that context, there are many competing elements which must be considered.

As I stated a number of weeks ago, each group will have to play its part. There must be partnership if we are to find a way forward. If the negotiations break down, everything will be put back into the melting pot. I would rather build on the confidence and optimism which is emerging than go back to a negative premise.

**Senator Fidelma Healy Eames:** I compliment Fianna Fáil backbenchers for calling it right on the ridiculous proposal of 12 days unpaid leave. It proves some people in Fianna Fáil are still in touch with reality because 12 days unpaid leave will not deliver public sector reform but will deliver chaos on the front line. The leaders of these unions and the Ministers dealing with them are not in touch with reality. The front line workers know they will have to pay the price. Parents will be knocking on doors looking for their child's teacher and people will be missing appointments. It will not work.

I fully support Senator Twomey's call for the Minister to come to the House to address this issue before we deliver real chaos on the front line. A pay cut would be far easier for our public service workers than this ridiculous proposal. How do the union leaders and the Ministers negotiating with them expect this to be delivered without negotiating with the workers who must deliver it, without negotiating with the principals in schools who will have to work out timetables with their teachers and without negotiating with the managers in hospitals? It is unworkable.

**Senator Larry Butler:** I support our backbenchers in regard to the proposal under negotiation with the unions. It is unacceptable for us to go down that route. It is a fudge and a fudge is a fudge no matter what one does.

**Senator Shane Ross:** Hear, hear.

**Senator Paschal Donohoe:** The Senator has changed his tune since yesterday.

**Senator Larry Butler:** The unions which have——

*(Interruptions).*

**An Cathaoirleach:** The Senator should ask the Leader a question.

*(Interruptions).*

**An Cathaoirleach:** Senator Butler, without interruption. The Senator should ask the Leader a question.

**Senator Larry Butler:** The unions were totally irresponsible in calling a one day strike which cost this country hundreds of millions of euro.

**Senator Joe O'Toole:** What about tax breaks for builders and developers and capital write-offs?

**Senator Larry Butler:** Some 2,200 factory workers in the midlands——

**Senator David Norris:** Interruptions, without Senator Butler.

**An Cathaoirleach:** I will ask those interrupting to leave the Chamber.

**Senator Larry Butler:** Some 2,200 factory workers in the midlands were unable to work that day because inspectors could not inspect meat. We should put a cost on that. Some 45,000 people are now on hospital waiting lists because of that one day strike. We should put a price on that.

The backbenchers in Fianna Fáil rightly see there is a job to be done. It is now up to the leader of Fianna Fáil and he will show leadership in this regard. I call on him not to go down the proposed route and to produce a policy for the Civil Service and the public service. Now is the time to do that and not next year or the year after. A policy must be formulated and I support the backbenchers in this regard.

**Senator Eoghan Harris:** The Government's position in regard to the public sector is very like that of these people in Knock who gaze at the sun and expect to see things happen. The Government, like previous Governments, has been blinded and hypnotised by the public sector. What has happened in the past few days is that the backbenchers have begun to give this Government a reality check on what the mass of our people think about the public sector.

There have been many bromides. I have read through the debates of the past few days. Bromides and tributes were paid to the public sector unions as if they were looking after the people. The public sector unions are a vested interest like bankers and employers.

There should have been no talks about this crisis. The Government should have imposed a pay cut without consultation with the unions. The time for this kind of social partnership is over. The public sector unions have dragged this out for weeks in the teeth of public opinion and have come up with this unpaid leave nonsense.

It is disgusting that the Government bottled it in the past few days. I know that now we are being accused of misreading it or being told the leaks should not be trusted but the Government allowed the perception to go out over the past few days that this unpaid leave was a runner. It is not a runner. The public is ready for pay cuts in the public sector. Pay cuts are needed in the public sector. Get on with it.

**An Cathaoirleach:** I call Senator John Paul Phelan.

**Senator Paul Coghlan:** Follow that.

**Senator John Paul Phelan:** It is difficult to——

**Senator Paul Coghlan:** The Senator should raise his voice a bit for a start.

**An Cathaoirleach:** Senator John Paul Phelan, without interruption.

**Senator John Paul Phelan:** I join with previous speakers in raising the issue of public sector reform. I express the view enunciated by Senator Ross earlier about the arrangements for negotiating these deals. Cosy behind the scenes deals are a large part of what got us in this difficulty. I support Senator Twomey's amendment to the Order of Business. It is only fitting that the Minister for Finance should come to the House today to debate what is being discussed



[Senator John Paul Phelan.]

between the Government and the public sector unions, in particular. We should have that opportunity at the earliest possible time.

I wish to ask the Leader about the ordering of business. There is a rumour that tomorrow's Order of Business will be at 10 a.m. Will the Leader confirm or deny same?

**An Cathaoirleach:** That is not correct.

**Senator John Paul Phelan:** I refer to the ordering of business yesterday. There was an allotted time for the Labour Services (Amendment) Bill 2009 which was put back by one hour and then by a half an hour. None of the spokespersons for the parties, including Senator Ryan, who raised this on behalf of the Labour Party, was informed of any of the changes to the Order of Business which were made on the hoof. It is completely unsatisfactory that the business of the House is ordered in such a fashion. I would like to see it improved and to hear the Leader's ideas on how that might happen.

There was a time when times were detailed when the schedule was announced on a Thursday evening. Members knew when debates would take place and when they were needed in the Chamber. Members are also members of joint committees and have other commitments as Members of the Oireachtas. It would be fitting if we could get a clear layout of the Order of Business from now on.

**Senator David Norris:** I also listened to the news interview with the Fianna Fáil backbenchers and I was struck, in particular, by something Deputy McGuinness said. He used an interesting metaphor when he said it was time for the brain to be connected to the backbone. It is absolutely true and is particularly true in the case of the Taoiseach. This is a time for firm, clear and decisive action which we have not had so far from Government. It is not up to me to give any details, as I am not capable of it, but that kind of leadership is lacking and I hope the Taoiseach can provide it.

In the middle of all this economic chaos, I hope we do not lose sight of vulnerable people here and abroad. In Dublin the charity Trust, which provides support for the homeless, expressed considerable concern about the harvesting of personal data about the homeless by some of the city authorities and the way in which it is exchanged. The same thing happened last year and it referred this to the Data Commissioner who expressed concern at the way this was being done. Will the Leader take this up?

I express great concern about the situation in Uganda. There has been an invasion of American evangelicals, or so-called Christians. They have been using the AIDS epidemic — last Tuesday was World AIDS Day — and are lobbying for changes in the law to reintroduce misprison of felony under which people can be convicted for not reporting the existence of so-called homosexual offences. They want to reintroduce the death penalty. A Bill has been introduced in the parliament in Uganda and, most shamefully, it has been supported by the Anglican church, the church to which I belong, in Uganda. I call on the Government to make the strongest possible protest against this blasphemous, inhumane and unchristian act. I also want to hear strong condemnation from the Church of Ireland primate of all Ireland and the Archbishop of Dublin.

**Senator Camillus Glynn:** Gardaí have made significant drug seizures recently, including a large cache in Moate which I understand was destined for sale in my home county of Westmeath. These seizures bring a sharp focus on the real dangers that arise from drugs. The town and county joint policing committees are fora in which information can be passed to gardaí. The Garda, Judiciary or Oireachtas cannot individually break the problem of drugs without

the co-operation of society. I ask the Leader and our spokesperson, Senator Ó Murchú, to arrange for a debate on drugs in the new year. The issue is worthy of a day long debate because if the drug problem was eliminated in the morning, we probably could close half the Garda stations in the country.

**Senator Jerry Buttimer:** I ask the Leader to outline the broad principles of the Government's budget strategy. It is clear from recent days that the Government has no idea about where it is going. Unlike the Government, David Begg gave a good and sensible analysis on last night's "Tonight with Vincent Browne". It is time that the Taoiseach addressed the nation to explain in simple English where we are and what is happening. I suggest that he should ask RTE to give him ten minutes from next Friday's "Late Late Show" so that he can make his address.

As Senator Ross noted, we are on the edge but I disagree with his contention that the actions of ordinary people are the reason for this. The bottom line is that workers are being penalised for the tax breaks given to developers and banks. The public are being forced to pay for the bad policies and transgressions of the party to which the Leader belongs.

**Senator Alex White:** Hear, hear.

**Senator Jerry Buttimer:** That party has been in Government for the majority of the past generation and it cannot be absolved from the policies it pursued. Now it is pitting the public and private sectors, husbands and wives or brothers and sisters, against one another. Untold tension has been caused in households by the budgetary policies of the Fianna Fáil Party. We must see leadership if we are to make progress but, sadly, we have seen nothing from the Government but contempt for this House, the Opposition and, most important, the ordinary citizen.

**Senator Feargal Quinn:** It is easy to run a business in good times because one can sit down with unions to discuss how to share the profits. The bankers can be ignored because they are not needed. However, running a business in tough times is different because one has to tell the unions what is to be done while persuading the bankers to have confidence. I am concerned this Government is not running the country as it would run a business. It was easy in the good times but now we are in bad times we continue to play the same game of trying to reach a pleasant deal with the unions. That is unlikely to happen because we have to make the cuts somewhere.

Today's *Financial Times* carried an article about Greece on the top two thirds of a page and one about Ireland on the remaining third. Greece has not managed to honour its words to the bankers and is now in serious danger of losing their goodwill. The result may be that the IMF will come in, as it did in Latvia, Romania and Hungary, to dictate what has to be done. We have only a few days to reach an agreement with the unions and convince our bankers. If we fail, we will no longer be in control.

**Senator Ivor Callely:** I listened with interest to Senator Quinn's contribution. I have great respect for the Taoiseach's knowledge and understanding of the economy. If anybody understands the difficulties we face, it is him. Certain people are playing games in the economy. I concur with Senator Quinn regarding the pressures on companies but let us not fool ourselves about the games being played by banks in advance of NAMA. They may be able to get a rent roll of a company if it is put into liquidation now rather than being absorbed by NAMA.

Unions are also playing games. It is time we put our cards on the table. Many people are prepared to acknowledge our problems and to work towards a solution. I support the calls for a debate on this issue.

[Senator Ivor Callely.]

I ask the Leader to arrange for a briefing on the protection of trade marks and intellectual property for companies which run into difficulties. I understand Irish companies are not protected to the same extent as elsewhere.

**Senator Joe O'Reilly:** Many Senators have given fine speeches on making this House more relevant and responding to people's concerns. Never was there a better moment than now for the Leader to take an initiative in making this House relevant by bringing the Minister for Finance before us to make a presentation and answer our questions on what is happening.

Irrespective of the merits of taking 12 days' unpaid leave, such a proposal cannot work in front-line services. Given these matters are being argued in the media, the question of our relevance arises.

The country is lost without clear leadership. This Government has had previous opportunities to address public service reform. That should be an ongoing process rather than shoehorned into a couple days of high pressure negotiations. The Government should have built in reforms and flexibility over time. It is a failure of the Government that that did not happen. I call for a debate to deal with these issues. Senator Buttimer is correct when he says it is wrong for splits to develop in our society between the private and public sectors. We should hold that debate to get over this problem which has been caused by an absence of leadership. We should suspend normal business to hold the debate immediately after the Order of Business today.

**Senator Maria Corrigan:** On the Order of Business yesterday I asked the Leader when the Multi-Unit Developments Bill would be brought back to the House. He indicated that he would respond this morning. Will he give us an update on the matter?

We discussed the Mental Health (Involuntary Procedures) (Amendment) Bill yesterday evening. In his response the Minister of State indicated he would undertake and announce a mental health review in February or March. Our debate last night was confined to the amendment referring to ECT. Given that a mental health review will be much broader in scope, will the Leader arrange a wide-ranging debate on mental health issues, including implementation of A Vision for Change, before February to inform the Minister of State's view in order that he can take account of the expertise and suggestions offered by Members?

I was struck by comments made this morning about contempt for this House. Most contempt for the House was expressed when a party leader proposed that it be abolished.

**Senator Camillus Glynn:** Hear, hear.

**Senator John Hanafin:** Will the Leader hold a debate as soon as agreement is reached with the social partners? I am conscious that in the good times we unfortunately forget the bad times and that in the bad times we forget the good times. That is never more apparent than when we compare our current situation with that in April 2008.

**Senator Paschal Donohoe:** Or yesterday.

**Senator John Hanafin:** We find ourselves in a much better position than we were in last year when we were on the precipice. The Government did everything it could and succeeded in bringing us back from the precipice and ensuring the stability of the banking system. That has preserved employment and the economy. If we are in a position to reach a deal with the social partners and if it offers a workable solution, as the Taoiseach says, we should welcome it. One pays a price for social harmony. In the good times we can all benefit again. In the past 20 years

we have had many good times and have faced up to our difficulties with broad shoulders and done so correctly.

**Senator Paudie Coffey:** I draw the Leader's attention to the pressure on businesses. As we enter the middle of the Christmas retail season, it is very striking how many shop units in city centre areas are closed. One need only walk two streets from here, towards Grafton Street, to see the number of units that are closed or to let. This indicates that businesses are closing. I suspect many more are just holding on until the Christmas season is over. I call on the Leader to put as much pressure as possible on Government or ask it to at least review the VAT rates to assist retailers to get their businesses going again. They are hanging on, as is evident in Waterford, from where I come. I am sure the position is the same in Cork, Limerick and Galway. This is a very important matter. In the middle of the Christmas shopping season retail businesses are under great pressure. We have criticised people who might have gone shopping in the North in the past few weeks but we can do something about it by reviewing the VAT rates which would help retailers.

**Senator Donie Cassidy:** On No. 1, I propose that we take it as far as Committee Stage today. Some colleagues wish to take Report Stage next week. With agreement of the House, it is, therefore, proposed that the Houses of the Oireachtas Commission (Amendment) Bill 2009 — Order for Second Stage and Second Stage shall be taken at the conclusion of the Order of Business, on which spokespersons may speak for seven minutes and all other Senators for five minutes, and on which Senators may share time, by agreement of the House, with Committee Stage to be taken at the conclusion of Second Stage.

**An Cathaoirleach:** Is the Leader proposing to take Second and Committee Stages today?

**Senator Donie Cassidy:** Yes, we will go as far as Committee Stage today and take Report Stage next week, by agreement of the House.

Senators Twomey, O'Toole, Alex White, Donohoe, Ross, Coughlan, Ó Murchú, Healy Eames, Butler, Harris, Phelan, Norris, Buttimer, Quinn, Callely, Glynn, Reilly and Hanafin all gave the House the benefit of their views on the challenge facing the Government in the budget which will be announced next Wednesday. This is the greatest single challenge facing the country and the Government. We are all hoping and praying it will be the start of the revival of the economy. It is extremely important that the Government makes the right decisions in the face of this challenge. That is the message I am getting from all sides of the House. I have every confidence that the difficulties being experienced and the negotiations with the social partners indicate that the people expect change in the public service and that public servants expect this very necessary change. Pay cuts are urgently needed. Like all my colleagues, I hope these take place in the budget next Wednesday.

In response to Senator Alex White's call for an urgent debate on climate change, I will endeavour to hold it on Wednesday morning or late on Tuesday evening. I fully share the Senator's sentiments about the Minister for the Environment, Heritage and Local Government being given the opportunity to convey the views of this House at the conference in Copenhagen.

Senators Hannigan and Ó Murchú expressed their serious concern about the need for the Government to hold funding for overseas aid at its current level. I will pass on their strong views to the Minister after the Order of Business.

In response to Senator Phelan, we had to change the Order of Business yesterday, by agreement with party spokespersons who were in the House for the debate on the preceding Bill. I apologise to colleagues for the inconvenience this caused in respect of the Labour Services (Amendment) Bill. The Minister's office was contacted and the Minister was in agreement. I

[Senator Donie Cassidy.]

apologise to the spokespersons who were handling the Bill on behalf of various parties. I will endeavour to put a procedure in place to ensure this does not happen again. My secretariat will contact spokespersons' offices when we endeavour to continue a debate for an extra half an hour or so to conclude a Bill, as ordered and agreed in the House.

Senator Callely called for a debate on the protection of trademarks and tradenames and intellectual property. I will have no difficulty in agreeing to such a debate. I understand this is one of the countries which is most up to date in protecting intellectual property rights but something urgent needs to be done to protect trademarks and tradenames.

I will pass on Senator Norris's strong views and concerns about the invasion of Uganda to the Minister for Foreign Affairs.

Senator Glynn called for an urgent debate on drug abuse and misuse and the drugs scourge, particularly in the town of Moate which we all know so well. We were all surprised that this was happening at such a level and by the news we received last week of its horrific outcome. I concur with the Senator on the good work being done by the joint policing committees.

Senator Corrigan asked about the Multi-Unit Development Bill 2009. This Bill completed Second Stage in the House before the summer recess. Since the Bill's publication, a considerable number of submissions have been received from stakeholders. Important issues were also raised during the Seanad debate such as the scope of the Bill and whether mixed use developments and traditional housing estates should be included in it, voting rights and dispute resolution mechanisms. Another major feature of the submission received is in the commitments made on the planning process and building control standards, which are the responsibility of the Department of the Environment, Heritage and Local Government. The completion of the developments in compliance with planning conditions and building control standards is a major issue.

The Department of Justice, Equality and Law Reform has held consultations with the relevant stakeholders. Discussions with other Departments, the Office of the Attorney General and the Office of the Parliamentary Counsel are now taking place with a view to preparing and drafting the Committee Stage amendments. This is the up to date position on the Bill——

**Senator Dominic Hannigan:** On a point of order, that is the same answer that was given to us over a month ago. We need to see action. People are paying excess fees as a result of unregulated management companies, and we need the Bill back in this House quickly.

**Senator Donie Cassidy:** That is the up to date position. It is a complex Bill and I am sure the Senator agrees with that.

Senator Corrigan also called for a debate on the Vision for Change document on mental health at the earliest possible time after the Christmas recess. We can have that in the first two weeks after we return.

Senator Coffey outlined to the House the serious pressure that is on the retail trade. It is shocking to see the changes that have taken place in the last 12 months where some retail businesses are down trade by as much as 50%. I fully agree with the sentiments being expressed by the Senator. All councils in Ireland have a serious challenge on rates. There are serious costs to be borne in larger towns and cities, as these businesses are the only groups paying rates to keep the machines of local authorities moving. On the island of Ireland, we should shop local, buy local and support local, otherwise there could be a serious change in the retail sector after Christmas. We do not want to see that happening, especially with small family businesses that have been providing employment for generations. I call on the public to support everything local this Christmas more now than ever before, because they are really needed.

**Senator David Norris:** Will the Leader confirm that discussions on the Murphy report will continue on a further day if they are not completed within the allocated time?

**Senator Donie Cassidy:** We will have at least one more day of debate on the report, if that is possible.

**An Cathaoirleach:** Can you clarify the speaking times for Second Stage of the Houses of the Oireachtas Commission (Amendment) Bill 2009?

**Senator Donie Cassidy:** Spokespersons may speak for seven minutes, and all other Senators may speak for five minutes.

**An Cathaoirleach:** Senator Twomey has proposed an amendment to the Order of Business: “That statements with the Minister for Finance on the partnership talks be taken today”. Is the amendment being pressed?

**Senator Liam Twomey:** Yes.

Amendment put.

The Seanad divided: Tá, 21; Níl, 27.

Tá

Bacik, Ivana.  
Bradford, Paul.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Coghlan, Paul.  
Cummins, Maurice.  
Donohoe, Paschal.  
Fitzgerald, Frances.  
Hannigan, Dominic.  
Healy Eames, Fidelma.

McFadden, Nicky.  
Norris, David.  
O'Reilly, Joe.  
O'Toole, Joe.  
Phelan, John Paul.  
Quinn, Feargal.  
Ross, Shane.  
Ryan, Brendan.  
Twomey, Liam.  
White, Alex.

Níl

Boyle, Dan.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Carty, John.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
de Búrca, Déirdre.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Harris, Eoghan.

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

Tellers: Tá, Senators Maurice Cummins and Paschal Donohoe; Níl, Senators Camillus Glynn and Diarmuid Wilson.

Amendment declared lost.

**An Cathaoirleach:** Will the Leader clarify the speaking times for No. 3?

**Senator Donie Cassidy:** There will be 15 minutes for spokespersons and ten minutes for all other Senators.

Order of Business agreed to.

**Houses of the Oireachtas Commission (Amendment) Bill 2009: Order for Second Stage.**

Bill entitled an Act to amend and extend the Houses of the Oireachtas Commission Act 2003 and to amend accordingly the references to the Office of the Houses of the Oireachtas in certain enactments.

**Senator Labhrás Ó Murchú:** I move: “That Second Stage be taken today.”

Question put and agreed to.

**Houses of the Oireachtas Commission (Amendment) Bill 2009: Second Stage.**

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

**Minister of State at the Department of Foreign Affairs (Deputy Peter Power):** As always, it is an honour and a privilege to address the Seanad and listen to Members’ views on this important legislation. Senators will remember that the Houses of the Oireachtas Commission came into being on 1 January 2004, following enactment of the Houses of the Oireachtas Commission Bill 2003. The commission has since overseen the smooth running of services in both Dáil Éireann and Seanad Éireann and instituted a number of significant improvements in the services provided for Members to the wider public. The delivery of these services is largely in the hands of the staff of the Office of the Houses of the Oireachtas, as the Civil Service support structure is formally known.

To remind the House, the commission comprises 11 members under the chairmanship of the Ceann Comhairle of the Dáil, the Cathaoirleach of the Seanad and the Clerk of the Dáil, in his capacity as Secretary General of the Office, who are *ex officio* members. There are also seven ordinary members, four from the Dáil and three from the Seanad, who are appointed by the Members of each House, and one representative of the Minister for Finance. The responsibilities of the commission include the payment of the salaries and allowances of Deputies and Senators, the payment of the salaries of staff of the Houses and secretarial assistants of Members, the payment of certain pensions and the provision of other necessary facilities to enable the business of both Houses to be transacted.

The fact that Ireland has a bicameral and bilingual assembly presents particular administrative and logistical challenges in the management of the day-to-day business of the Houses. For example, the 2003 Act was amended in 2006 to confirm that one of the functions of the commission was to provide for the translation of Acts of the Oireachtas. However, a co-located bicameral parliament having a shared staff also brings many efficiencies not enjoyed by other parliaments having separate premises and staff. Under the commission, many of the services that would otherwise be provided separately for each House are provided as a combined service, with examples including procedural support for House business and committees, official reporting of debates, the translation services mentioned, security and accommodation, catering, refreshment and other facilities.

The primary purpose of the Bill is to make available the funding for the running of the Houses in the coming years. The current funding comes to an end on 31 December. The Bill proposes in section 6 to make available to the commission a sum not exceeding €360 million to carry out its functions in the three-year period from 1 January 2010 to 31 December 2012. This sum has been agreed with the commission and takes into account foreseen expenditure.

It is less than the €393 million provided for the past three years but it must be seen in the context of the current budgetary and fiscal position of the country. The proposed funding carefully balances the needs of the commission with the availability of resources during the period. We should not take for granted the services which it is intended to fund and I urge Senators to reflect on how they might pursue their business in a manner which will support the maximum economy and efficiency in the running of the Houses.

Members will be well aware that the financial provision for public services will be under severe budgetary pressure in the coming years. Negotiations are ongoing for the achievement of significant cost savings in the delivery of public services. I understand the Government and the Minister for Finance expect that any savings to the commission resulting from the outcome of the discussions will be reflected in a reduced drawdown against the amount provided in the Bill.

Aside from the financial provisions, the Bill also provides for a renaming of the Office of the Houses of the Oireachtas as the “Houses of the Oireachtas Service”. The purpose of this is to strengthen the identity of the service which is, in many respects, as distinct from the Houses of the Oireachtas or the commission as a Department is from its Minister. The public and parts of the public service often find it hard to appreciate the distinction between the elected Members of the Houses, the commission and the administrative staff of the commission and their respective roles.

The distinct role of the Civil Service staff and senior management structures of the Oireachtas are specifically recognised in the Staff of the Houses of the Oireachtas Act 1959. These structures have served both Houses extremely well and remained in place following the establishment of the commission in 2003. However, significant changes in Civil Service management systems have taken place in the 50 years since the Staff of the Houses of the Oireachtas Act 1959 came into force and it is accepted that the configuration in that Act, particularly in terms of senior management structures, needs to be modernised. In that regard, the Minister for Finance is committed to ensuring, in co-operation with the commission, that the administrative structures of the Oireachtas do not become out of step with Civil Service norms in terms of adapting flexibly to the needs and demands of modern management practices.

The renaming of the office comprising the staff of the Houses as an entity to be known as the Houses of the Oireachtas Service does not affect the operations of the service or its relationship with the commission under the 2003 Act and the commission retains all the powers and functions conferred by that Act. However, the change in title may facilitate further development of the service and closer integration of the service with the commission as its governing body in future legislation. Section 2 provides for the renaming, while section 14 and the Schedule, Parts 1 and 2, update the references to the Office of the Houses of the Oireachtas in other Acts and statutory instruments.

The Bill also includes some technical amendments to the existing legislation and I take the opportunity to present them briefly to the Seanad.

Section 3 sets out the advice and support function of the newly named Houses of the Oireachtas Service which is identical to that currently carried out by the office.

*12 o'clock*

Section 4 sets out, in greater detail than heretofore, the functions of the commission in providing for the running of the Houses and its policy determining and oversight roles. It also includes new measures clarifying the commission's accountability to the Houses for the performance of its functions and obligation to secure value for money in the use of resources. It also clarifies that the charge to be levied by the commission under the



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existing legislation for the provision of certain services and facilities for outgoing Members following a dissolution of the Dáil is to be for the period of dissolution only.

Section 5 is a new provision for the drawing up of a code of conduct for commission members. While they are already covered by other codes, these are not specific to that role and a uniform code is desirable in the interests of good governance. The purpose of section 7 is to bring the process for the removal of a commission member more into line with that used for Oireachtas committees.

The 2003 Act specified that Oireachtas staff who were civil servants before the establishment day specified in that legislation continued to be civil servants after that day but did not legislate specifically for those appointed subsequently. Section 8 amends the original section to include both categories in the civil servant classification.

The objective of section 9 is to amend the original legislation to provide a statutory basis for the procedures to be followed by the commission if a Supplementary Estimate is required in any year. This is in line with current practice since the establishment of the commission.

Section 10 is a new provision setting out the role, membership and functions of the audit committee. The commission's audit committee is currently established on a non-statutory basis and has been in place since 2004. The section reflects the current membership and practice, with the exception that it proposes that the commission may appoint up to three external members where currently it has only two.

Section 11 which replaces section 15 of the 2003 Act updates the provision of the 2003 Act by designating the Clerk of Dáil Éireann as Secretary General of the "Houses of the Oireachtas Service" and chief executive of the commission. It also designates the Secretary General as the officer accountable for the commission's accounts.

Section 12 expands on the Secretary General's functions as set out in the 2003 Act, including accountability to the commission for ensuring economy, efficiency and effectiveness in the use of commission resources and the preparation of a statement of values for the service. The section also clarifies the Secretary General's role *vis-à-vis* the commission with regard to various other statutory functions.

Section 13 restates the commission's responsibilities with regard to injury claims made by secretarial assistants employed by Oireachtas Members or political parties. It also repeals the relevant sections of earlier Acts which it supersedes.

The usual definitions, Short Title, collective citation and commencement provisions are contained in sections 1 and 15. It is intended that the Bill will come into effect on 1 January 2010.

Most of the proposed changes are minor or technical in nature. However, they are intended to give greater clarity and functionality to the legislation underpinning the service on which we all rely. Senators will appreciate that the process of updating the legislation is ongoing. I have no doubt that in a few years' time other, possibly more significant, changes, including, as I signalled, to the Staff of the Houses of the Oireachtas Act 1959, will be required to keep up to date with best practice and developments in the way our parliamentary business is done and wider developments in public service management. The three-yearly budgetary process is valuable, not just in facilitating financial planning but also in giving an opportunity to reflect on the adequacy of the structures underpinning the management of our institutions and their funding.

In summary, the Bill is designed to enable the Houses of the Oireachtas Commission to continue to provide the services which have facilitated both Houses in the carrying out of their work in the past six years and to facilitate their further development. Members will agree that these objectives are worth pursuing. It is important also to point out that the changes proposed

in the Bill have been approved by the commission. Accordingly, I commend the Bill to the House.

**Senator Liam Twomey:** At a time when we are trying to be more accountable to the general public on financial issues, we should have tightened the figures a little better and provided for more clarity in other sections. For example, section 5 deals with codes of conduct, but the Minister should publish them to give us a greater idea of what is going on. Perhaps, the Minister of State will have the opportunity next week on Report Stage to present them to us to give us a better idea of the terms under which the members of the commission will work.

In the budget, as presented to us, the average cost of running the Oireachtas has been €120 million per annum in the past two years. It is unlikely this will change significantly in the next few years. If anything, the amount will reduce significantly. The figures presented allow for a figure of €120 million per annum, but perhaps we should have tightened up better on it. Next week's budget may well bring changes to the pay of Ministers and Members of the Oireachtas. Therefore, there was an opportunity to present a figure to the public that might be closer to the real thing. The headline figure is €120 million per annum, but the Minister of State made no allowance in what he said for changes that may be made. I know he cannot predict when the next general election will take place or what may happen. If the current opinion polls are to be believed, a fair amount will be needed for severance payments to certain members of the Government. Allowance must be made for this. However, in general, we expect a significant drop in the cost of running the Oireachtas in the next year or two. This should have been taken into account by the Minister of State in presenting the figures.

The information made available to us by the Oireachtas Library and Research Service shows us there was an increase of 34% in the cost of running the Oireachtas in the second three-year period, 2007 to 2009. The budget went from a figure of €295 to €393 million. It is stated the extra €100 million was due to severance payments and pension costs associated with the 2007 general election, the commission's decisions on service improvements and staffing resources and the provision of a translation service to translate Acts of the Oireachtas. Will the Minister of State provide a breakdown of costs in each of these areas?

I would like the Minister of State to take into account that the budget for running the Oireachtas should include ministerial expenses. Members of the Houses are fully accountable with regard to their expenses and in making them public. However, ministerial costs are covered up within Departments. In order to provide for greater transparency and accountability Departments should not be responsible for ministerial costs. That function should be performed by the Houses of the Oireachtas Commission. In today's newspapers, for example, mention is made of a €41,000 secretarial allowance Ministers receive above the normal Civil Service staff complement and separate from their entitlements as Members. It appears this secretarial allowance is not paid from the Oireachtas budget but from that of the relevant Department. There are a number of other allowances also paid to Ministers such as a housing allowance for Ministers from outside Dublin who buy a house in Dublin. Ministers have a range of benefits, of which many are unaware and which it seems are unaccounted for to a degree because they are buried in the middle of departmental budgets. All such ministerial costs should be transferred to the budget of the Houses of the Oireachtas Commission. Also, a note should be included in the commission's report on all additional costs such as the cost of State cars or providing State services for Ministers. That is the accountability the public wants to see at this time.

A significant change is being made to the audit committee which to date has been non-statutory. The audit committee shall be established on a statutory basis. I ask the Minister of State to outline the proposed changes and the implications for members of the audit committee. We have seen in the case of the banks and other organisations that an audit committee often

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does not understand its function very well and may be merely acting in a rubber-stamping capacity for decisions made by a chief executive or board of directors. An audit committee which is established by statute would imply further responsibilities for the members of the committee. I ask the Minister of State to explain those responsibilities.

The Bill provides that the senior civil servant, the Clerk of Dáil Éireann, will be designated Secretary General of the service and chief executive of the commission. What are the financial costs, if any, associated with the change in status of that person? A Secretary General of a Department is paid substantially more. I ask the Minister of State to clarify whether the Secretary General of the Houses of the Oireachtas Service will be of similar standing and whether this will have financial implications.

There is a need for a tightening up of the financial information presented to the House and there are opportunities under all headings. I ask for information on both past and predicted future costs. The Minister of State needs to be clear with regard to the changing functions of the commission, the code of conduct for commission members and the changes in responsibilities of members of the audit committee. We will be seeking greater clarity on these points on Committee and Report Stages.

**Senator Labhrás Ó Murchú:** Cuirim fáilte roimh an Aire Stáit agus cuirim fáilte roimh an mBille. Tá sé tráthúil go mbeadh reachtaíocht den saghas seo ag teacht os comhair an tSeanaid. Tá obair agus freagracht uile ghabháil each ar an gcoimisiún agus mar sin, tá sé tábhachtach ó am go chéile athbhreithniú a dhéanamh ar sin. I welcome the Minister of State. In 2003 when we embarked on the legislation to establish a new commission it was quite clear at that time we were entering into uncharted waters, so to speak, in many ways. It was evident that from time to time, it would be important to review that legislation and the operation of the commission. It is only right to begin this debate by acknowledging the work of the commission to date. It has an exceptionally wide remit and much wider than is generally known outside the Oireachtas. It has presided very well over the smooth running of the services of the Houses of the Oireachtas. We are living in different times now and because of the changed economic times, people are taking a much closer and detailed interest in parliamentary operations. The commission has a relatively large budget and for this reason is coming under increasing scrutiny. The change of name of the commission to the Houses of the Oireachtas Service is important as it gives a distinctive corporate identity to the commission.

I refer to existing similar models of this type of institution in other countries. To some extent we have fallen behind what is available in other countries but this provision will be a form of catching up. I note the operation of the commission will be discussed in both Houses and accountability will underpin those discussions. I say this not by way of criticism but to underline the potential which exists for the commission. It would be helpful for all Members to be kept up to date and be aware of the activities of the commission. Recent discussions regarding issues of expenditure were publicised in the media in what was a half-baked way. It would have been preferable if such information had been presented in a controlled and accountable fashion within the Houses of the Oireachtas. I expect this will be accommodated in the new legislation.

I hope this legislation will be a step towards an independent section of the Civil Service which underlines and underpins the independence of Parliament as this is very important. This is not meant to be a criticism of the staff because they have done an exceptionally good job in a very professional, calm and quiet manner. We should acknowledge their work. However, it is important to allow for the independence of Parliament and for this to be evident to the public. I see this legislation as a step in that direction.

Issues have been brought forward by the Minister of State. I refer to a figure of €360 million to be allocated over a three-year period. The Minister of State has helped us to understand this but he is not saying this must be spent. The drawing down of that money is very much a matter for the Houses themselves. We need to ponder on this point. I note that in his nice Munster manner he put forward a challenge to this House. We must also judge how effective and efficient we can be and how we can make savings because this is how we will be judged finally and not by another body such as the commission being accountable. Many of the debates in this House have been exceptionally inspiring. People are very open to identifying ways of saving money. I refer to the amount of paperwork emanating from the Houses of the Oireachtas which is quite extensive. We should examine ways of making significant savings in that regard and include the personnel aspect of copying documents, etc. This is only one aspect.

I suggest the House consider arranging for an extension in sitting hours. I am not trying to be populist in this regard. We should sit longer hours when possible. We patted ourselves on the back when we sat until 8 a.m. when dealing with the banks issue and we all felt the better for it because we felt we were giving a better service. Two nights' ago the House sat until 11.30 p.m. or midnight. I do not mean this should be the normal practice but we should look at how we can use the time of the House more effectively which also provides a challenge for Members.

I do not mean this as any criticism nor to mean there was any vacuum in this regard but a code of conduct for members of the commission is important for the members themselves. In many ways these were the kind of issues we knew we would have to deal with when the commission was established in 2003.

I do not wish to denigrate the amendments tabled for Committee Stage but the small number of amendments suggests a fairly general welcome for this legislation as proposed. I am happy that when we take Committee Stage later, there will be an opportunity to elaborate on a number of issues. I compliment the Minister of State and his officials on bringing forward this timely legislation which has given us an opportunity to focus on something we have taken for granted. This is another step towards bringing the Oireachtas more into line with what is happening in parliaments in other parts of the world.

**Senator Joe O'Toole:** I welcome the Minister of State and I also welcome the legislation, which I support enthusiastically. I was a member of the first Houses of the Oireachtas Commission and I am a member of the Irish Audit and Accounting Supervisory Authority. I would like to raise a number of issues which I hope the Minister of State will take on board. I concur with Senator Ó Murchú's remarks. The commission is doing a difficult job well and it has expanded services.

I have had arguments about individual issues with the commission now and again but we made a mistake when it was established. A number of parliaments that have set up similar commissions and tied in the work of their committees on procedure and privileges with the work of their commissions. We had that choice and it should have been done. I called for it at the time but it was not done and it never will be done. Consequently, there has been regular conflict between the decisions of the commission and those of the Committee on Procedure and Privileges and there is not a clear understanding of the differentiation between them.

I refer to the guide for board members of State bodies in Ireland, a copy of which I was given on the day I was appointed to the commission. I acknowledge that the commission has an audit committee, although it is not statutorily necessary. The document states: "The Chief Executive, Head of Finance and Head of Internal Audit should attend meetings, though not as members of the audit committee". This is the Government's position on audit committees. I would like this provision inserted in the legislation. The Bill provides for the Secretary General to appoint somebody with a background in finance. The head of finance is crucial to

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audit. For instance, he or she is mentioned in the Sarbanes-Oxley Act in the US as the person rather than the chief executive who takes the hit. This is Government policy and I ask the Minister of State to insert this provision in the legislation. There are good reasons for that.

The Department of Finance recently issued a code of practice for the governance of State bodies. I am on a number of State bodies and this document has been gone through in minute detail to meet its stringent requirements. I would like to ensure we do the same in this legislation. Paragraph 9.2, which is crucial to how the code works, states:

A small number of bodies have an Accounting Officer within the meaning of the section. In such cases, the accountability of the Accounting Officer to the Oireachtas must [not may] be differentiated from that of the board's general responsibilities.

That is key to my problem with the legislation. It does not make that distinction explicit enough but it is required. A basic tenet of the code is that all semi-State bodies should comply with its requirements.

It is also important that the code provides that the chairperson of each subsidiary should formally report to the main board. That would apply to the audit committee of the Houses of the Oireachtas Commission. The greatest failing in the legislation is the lack of a requirement to report to the board. A report should be made to the commission after every meeting of the audit committee and every paper produced by the committee should be available to every member of the board. This is crucial to transparency. The problem in FÁS is the board never saw the outcome of its internal audit unit's investigation. That cannot happen under this legislation but it only provides for a report to be made once a year whereas the code of practice requires that the chairperson of a State body should provide an interim report to the relevant Minister on significant issues within six months. There is a continuing responsibility on the chairperson to carry out various functions.

While section 10 provides, rightly, that the audit committee should advise the Secretary General on financial matters, I would like the committee to advise the chairperson as well. I have witnessed on a number of occasions chairmen of State bodies appearing before the Committee of Public Accounts who clearly were not aware of their responsibilities. This is where the breakdown begins. This is small provision to insert. It would strengthen the Minister's position and it does what his advisers would want to have done. We cannot have a scenario where people can point to a gap in the governance structure of the Oireachtas in comparison with what is required of other State bodies.

The code of practice states further: "The Board should lay down formal procedures whereby Directors may take independent professional advice if necessary at reasonable expense, if they feel they need it." This happens regularly and it should be addressed in the legislation. Another issue covered by the code of practice but not the legislation is the protection of whistleblowers. I cannot think of somebody working for another State body who would require more protection than a member of the Oireachtas staff who wanted to draw attention to an issue without it rebounding on him or her. An amendment should be made to reflect this.

The Minister of State referred to the challenge to how we do our business. The legislation should provide for a formal review of the performance of individual directors. Every Member in both Houses would say that is badly needed. It would be a little humbling and unattractive to measure the competence of board members, as each member would be asked by an external body what he or she thought of the contribution of colleagues. My comments are not a reflection on the legislation or the commission. I do not object to one word of the Bill and I will support it. However, I have a great deal of experience in this area and I guarantee the issues

to which I have referred will be raised. Each issue has been discussed over the past three months since the new code of practice was circulated to every semi-State body. I hope nobody replies that the Oireachtas commission is not a semi-State body.

I also have a copy of an old Department of Finance publication on internal audit. Members of the Green Party raised questions about how internal audits work within Departments. Will the Minister of State take on board the issues I raised? I have tabled amendments on Committee Stage to address a number of them but I did not have time to address every issue because the Bill was introduced so quickly. I will understand if the Minister of State cannot accept the amendments today but I have asked that Report Stage be taken next week in order that he can examine the issues I have raised. If there is something wrong with what I said, I will accept that but these issues are raised at audit meetings all the time.

**Senator Dan Boyle:** The legislation is technical in nature and is the third such allocation of a triennial budget to the Houses of the Oireachtas Commission since it came into being with the 2003 Act. The House needs to be run and there is an onus on us to ensure the appropriate budget is given. It being frozen for the period 2010 to 2012, as opposed to the three-year period just passed, on the surface seems to be responsible given the budgetary constraints at the moment. The 2012 budget will be on average the same as the 2007 budget. Given that decisions are pending and may be made next week when the Minister for Finance delivers his Budget Statement, there is an onus on us to speak about the cost of the Houses of the Oireachtas Commission and how we can reduce the cost as much as possible.

Some of the debates and discussions over the past 18 months, particularly regarding Members' expenses, have not been handled well by the commission. This has not helped the perception of politics and politicians outside this House. I would like to see the commission being more proactive in this area, not only in terms of the amount given for expenses but the manner in which they are given. Proposals are being considered by the Minister for Finance in this regard. It seems strange to me that the system of travel expenses rewards Members of these Houses and members of the Civil Service for having a bigger car. As long as we have expenses that encourage people to be wasteful, we will waste public resources. In passing legislation such as this, if we do not make these points and see these changes happening, our credibility is lessened.

There are other issues about how the commission is operating. I agree with Senator O'Toole in respect of transparency. The minutes of the commission are made available but they are very anodyne and relate to decisions. We should raise questions about the commission meeting in public as much as possible. The commission is responsible for the affairs of the ultimate public bodies in this country. We should seek an open and transparent culture within the commission.

Due to the grouping arrangements and membership of the commission, there are questions about how representative it is. For example, there is only one female member on the commission. The Green Party and Sinn Féin have no representatives and the Independents find it very difficult to be represented on the commission. The composition of the commission must be seriously examined. Given that this is the third triennial budget, we must have a valuation process of whether the stand-alone Houses of the Oireachtas Commission is better than the previous system of allocation from the Department of Finance. It is taken as a given that we should run our own affairs and that this is the best mechanism to do so. Major questions have been raised about the first two tranches of funding and whether they have been used effectively. It seems to represent how public expenditure has gone out of control in this country. If we cannot show we are running the Houses of the Oireachtas in the most efficient way, it raises a

[Senator Dan Boyle.]

credibility issue about gaining public confidence on whether we can run the public finances in a credible way.

I did not intend to be so negative in dealing with what is a technical Bill but the debate on Second Stage gives us the opportunity to ask questions that we rarely ask and that, for cultural reasons, we would prefer were not asked in public. For those reasons we should ask these questions and seek the answers.

The sincere commitment of those who have served and are serving on the commission is to try to deliver the best possible services. Elements of the Houses are run very well and would be a good example of how other things in society and in the public economy should run. The debate on Second Stage should be used as an opportunity to give congratulations on this.

Another point regarding the costs of the commission may cause dissent. This has nothing to do with the fact that my party is not represented on the commission. We must examine the stipend that attaches to being a member of the commission for representing the Houses of the Oireachtas when other committees do similar work. There is additional work for members of the commission but the context of 2004 is very different from the context of 2010. These measures must be examined strenuously.

I support this Bill. I ask that the qualifications I am raising be examined in the context of how the commission runs its affairs over the next few years. Given the current climate and in freezing the budget for the next triennial period, the expectation should be that the budget will not be fully used. In a culture where we try to spend the maximum and overspend on budgets, it would be a good signal if we found ourselves in 2012 having spent less than what was allocated in this Bill.

**Senator Alex White:** As a relatively new Member of the Houses, at certain times over the past two and half years I have scratched my head and wondered what was the role of the Houses of the Oireachtas Commission. That is not to criticise the commission or its members. My colleague in Dáil Éireann, Deputy Pat Rabbitte, has made me aware of the extent of the work and its importance. I have concerns that reflect what Senator Boyle said. What do we expect the commission to do and what is its role? If I am not 100% clear on that, it is difficult for the public to have an appreciation of the purpose of the commission.

I refer to the members of the commission, not the work it does. The financial, administrative and technical services provided to the Houses of the Oireachtas manifestly must be provided. It is good that there is an identifiable body in charge of doing this, but I am never clear on how this fits in. It exists since 2003. The phrase in the principal Act and repeated in the amendment Bill in elaborated format is that the commission is responsible for the running of the Houses of the Oireachtas. I am not particularly comfortable with the use of the phrase “running of the Houses of the Oireachtas”. I have not submitted an amendment in this regard but I would prefer if this was more clearly expressed as referring to the administrative, financial and technical services required for the Parliament to function. The term “running” suggests something grander than a body that provides a service. I welcome the change in this amendment Bill so that this is renamed a service. In the same way as the Civil Service is a service to the members of the Government, the parliamentary Civil Service provides a service to the Parliament and the Members of Parliament. The wording of the principal Act is not absolutely satisfactory in making this clear.

There is very little in this Bill with which one would have difficulty other than arguing it could go further in certain circumstances. For example, there is a provision in the legislation that the service will be accountable in future to the Houses of the Oireachtas, which is welcome. One would take it for granted that the commission or the service would be accountable to the

Houses of the Oireachtas. The section that provides for that is welcome, but it would be improved if there was an elaboration of how precisely that accountability is to occur. Senator Boyle or another Member said that meetings of the commission should be held in public which would present an opportunity for its work to be scrutinised in public. I have considerable sympathy for that point of view, but even in terms of its accountability directly to Parliament, what mechanisms does the Minister of State envisage the Seanad and the Dáil putting in place to vindicate that accountability provision? It is an important advance but it is not clear how it will be delivered.

The members of the commission are performing an extremely important role. There should be scrutiny of the work. We might consider meetings of the commission being held in public at which there could be a question and answer session or some elaboration by the commission members on the work they are doing. I listened carefully to what Senator O'Toole and others said in this respect. If we are to expect that level of availability and preparedness on the part of members of the commission to be subjected to public scrutiny, the job will be turned into something bigger than was originally envisaged. It brings me back to my original point, namely, what precisely is the role of such individuals. If they are to be available for such public scrutiny, as they should be, is the commission becoming a different sort of animal than was originally envisaged?

With regard to the payment of €16,000 to members of the commission, at this time we are examining the payment of various allowances and salaries. If there are five members of the commission — I have forgotten momentarily the exact number — and if those colleagues are to be prepared, briefed and have sufficient expertise to be queried in public as to what is occurring in Parliament, the services it provides, the cost of them, Members' expenses and strategies, I am not sure whether €16,000 is sufficient for that kind of work. It may not be popular to say that at the moment. If that is the level of work we are requiring — perhaps it is not and this is ultimately something that should be left to the management of that commission — that would take from its democratic——

**Senator Joe O'Toole:** That applies to every semi-State body and for a lesser amount.

**Senator Alex White:** I agree with Senator O'Toole that it does, but it probably applies with even greater strength to a body that is responsible for the “running” of the Houses of Parliament of the people. It is something that bears further consideration. It would be interesting to hear more from the Minister of State on how its accountability will be delivered. He might say it is a matter for the individual Houses as to how they will deliver that. That may be the answer we get.

I have no difficulty with the balance of what is proposed in the legislation. We could all talk at great length about various developments we would like to see happen in the Houses in terms of technical and administrative support for Members. One issue in this respect occurs to me every day we deal with legislation. This amending legislation is a relatively short Bill, in respect of which there is the 2006 amending legislation and the 2003 principal Act. Senator Ó Murchú said there seems to be very little controversy about this Bill as they are very few amendments to it. We got this Bill yesterday or the day before. While I do not believe I would amend it if I had two or three hours to consider it, this is not a satisfactory way of doing business.

**Senator Joe O'Toole:** It is not.

**Senator Alex White:** We are shuffling through the Bill while looking through the very helpful documentation from the Library and trying to decide whether we are doing the job as well as we should be doing it. Why can we not have a better use of technology by having the principal



[Senator Alex White.]

Act available on screen whereby we could note the sections of it this legislation amends and how it relates to other legislation? While I appreciate there are problems in terms of resources, it is not beyond the bounds of possibility that we could improve the way we do business in terms of amending legislation by having access to the materials that we need, particularly existing legislation, to enable us to navigate our way around the legislation more easily than we otherwise are able to do.

Those are some general remarks. I do not believe there is anything in the Bill to which one could take exception. I simply add those observations.

**Senator Paul Bradford:** I am speaking on the Bill as a member of the Houses of the Oireachtas Commission, which I believe is necessary to put that on the record.

I welcome the legislation and listened with interest to the previous speakers. Members of the public gain their knowledge of what happens in Leinster House generally from what is transmitted by the press. Only two issues of concern arose in terms of the Houses of the Oireachtas Commission during over the past 12 months. One related to the endless debate concerning Oireachtas expenses and allowances and the other issue, which grabbed some degree of public attention, was the restoration of Leinster Lawn. If one was simply a student of the media and had no further understanding of politics, one could be led to believe that the Oireachtas commission spent its entire time discussing expenses and considering the possibility of digging up Leinster Lawn.

**Senator Alex White:** Deputy Shatter would give that impression to the public.

**Senator Paul Bradford:** I remind colleagues that while it was easy for people to be critical of the Leinster Lawn project, a planning decision was made many years ago, which presented the requirement for us to restore Leinster Lawn. I do not believe we in the Oireachtas could be seen to second guess the planning process and, therefore, the work had to go ahead.

On the more substantive matter of allowances and expenses, which is entirely a matter for the Minister for Finance, my colleagues in this and in the other House are aware that the Oireachtas commission has had quite a number of meetings with the Minister and officials on this matter. We tried to reflect the views and concerns of the public and our colleagues. We look forward in the very near future to the Minister for Finance bringing forward his new proposals for what we hope will be a transparent, accountable and value for money system. It is on record that the Houses of the Oireachtas Commission proposed a single parliamentary allowance. The Minister did not seem entirely happy with that and there was further reflection, debate and engagement, but at the end of the day, as is the requirement under law, the Minister for Finance alone sets the allowances and expenses for politicians. It would be useful if that debate ended pretty quickly, hopefully with next week's budget, and that we were in a position to put a new system in place.

We have been very much the whipping boys in regard to this subject during the past 12 months. It is necessary that changes be made and that further reining in occurs across all sectors of the State. However, we must also ensure that politics as a career and a way of giving public service is open to every citizen of this State and that we do not make the system so financially inadequate that it would be only wealthy people who could become elected politicians. We forget that sometimes when we talk about a league of expenses and who claimed the most in January and who travelled the most in February. If we want politics to be a public service, to which every citizen of the State could aspire to enter, there must be a reasonable system of pay and expenses available to people so that it does not become, as it would have been many years ago, the preserve of the very well off.

It is to be noted with satisfaction that once again the Houses of the Oireachtas Commission, through budgetary savings and measures taken during the past few years, has underspent. In other words, it has saved the taxpayer money. If every agency of the State and every Department returned the amount of the underspend in the Houses of the Oireachtas Commission, the Government would not be in the difficult situation in which it finds itself in respect of the public finances. Our overall allocation from the national budget is tiny but in so far as we can, we should set an example. We have a three-year budget, on which we have saved and which we did not spend in its entirety. I hope this will be an example for other Departments.

I refer to two matters related to the work of the commission in so far as it impacts on the public. I congratulate all those involved in the schools programme which has put Members in touch with thousands of pupils throughout the country and has been very successful. This work is ongoing and we try to improve as we continue with it. I refer also to the open days in Leinster House which have attracted thousands of visitors and have been very successful. They have profiled the work of the Oireachtas and how it works as opposed to the perception held by some of how it works.

The members of the commission appreciate that we must continue to improve. We must continue to try to ensure taxpayers' money is well spent. We recognise our job is to preside over the effective administration of the finances available in Leinster House and keep the taxpayer at the top of our agenda. The triennial budget has been well spent; it has been constructively and, more importantly, carefully spent. Our commitment for the future should be to continue to be careful guardians of taxpayers' money.

**Minister of State at the Department of Foreign Affairs (Deputy Peter Power):** I thank Members for their thoughtful, incisive and reflective contributions. It occurred to me during the course of the debate that if ever there were an argument to retain this House, it was justified because of the debate or discussion that had taken place. The Seanad provides an environment in which a more reflective debate can take place that can utilise the undoubted diverse experiences, abilities and expertise available to the Upper House in a way not readily available to the Lower House, for political reasons, of which Members will be aware. I refer, in particular, to Senator O'Toole's undoubted experience and expertise in corporate governance in the public and semi-State sectors. That is the reason the Seanad is able to make a contribution that one might not find in the Lower House. It occurred to me that the matter should be considered carefully following proposals that had emanated from certain parties on the future of this House. The second Chamber has a valuable function and role to play, as do second chambers in democracies throughout the world. We should be very careful in our rush and haste to suggest we ought to abolish it. The matter is not directly related to the legislation but since I have the opportunity to compliment Members on their contributions, the point should be made.

Throughout all the contributions there has been broad agreement among parties and Independent Senators that the Houses of the Oireachtas Commission is an improvement on the historical structure. Senator White referred to this point. The powers and functions were vested in an informal way in the Ceann Comhairle and the Cathaoirleach and in a way not transparent or accountable to Members or the wider public. In line with corporate governance developments throughout civil society, the corporate sector, at Government level and in Departments, it was appropriate that a new and improved structure of corporate governance should apply to the Houses of Parliament. That is why the broad agreement across parties is welcome and an improvement on the position which obtained. I trust this deals with the issue raised by Senator White on the need for the legislation or the reason we are in this position. I will revert to the specific functions of the commission presently.

[Deputy Peter Power.]

I will refer to the contributions of Members in the order in which they were made. On behalf of the Fine Gael Party, Senator Twomey made several important points. He referred to the code of conduct and asked why it was not readily available for discussion. While I can see from where the Senator is coming, it is the responsibility of the commission to set out the code of conduct. This is an enabling provision to allow it to do so in consultation with Members derived from political parties across the board. It would not be within the powers of the Minister for Finance who is introducing the legislation to set out the code because, essentially, it is a matter for and a function of the commission. The publication of the code is a matter for members of the commission, as is the question of whether it should be brought to the floor of the House or back to the respective political parties for consideration. It is a matter for the commission to decide in its own wisdom.

Senator Twomey made the key point about the significant increase in expenditure in the three years preceding the introduction of the Bill. His point is well made because there was a 34% increase, amounting to €120 million. It deserves a serious response and analysis. When one considers the matter seriously, it is possible to see the significant improvements. Senator Bradford referred to the outreach schools programme. It is a significant expenditure item in the Houses of the Oireachtas Commission Vote and an innovative, imaginative idea to bring the concept of parliamentary democracy to schools. It has contributed to the increase in expenditure.

Senator White referred to the excellent research services provided by the Oireachtas Library for this debate and many others in this and the Lower House. This is a significantly enhanced function of the Oireachtas Library, involving significant additional expenses. Two of the key, headline items which have resulted in an increase in expenditure include the vast investment in information and communications technology, from which we have all benefited in the past three years. The Senator made the point that we should have greater ready access to it on a daily basis in dealing with legislation. The point is well made. All information and communications technology is expensive to introduce. It involves a heavy front-loading of capital expenditure, as well as ongoing maintenance costs for the period during which the investment is made.

The other great increase in expenditure relates to the increase in the number of committees serving the Houses of the Oireachtas. I realise the number of committees is a matter for separate debate. However, they require a substantial service in terms of the provision of information and communications technology, translation facilities, the recording of debates, committee clerks and so on. While the number of committees is a matter of debate, it accounts for the significant increase. I trust this gives Senator Twomey a flavour of the reasons for the 34% increase in the past three years.

Taken together, all of these developments mean Members are in a position to concentrate more effectively on their real role, that is, analysing and researching legislation and making informed contributions to the Houses. All of these developments help us to do this.

Senator Twomey also inquired as to why ministerial expenses are not included in the budget for the Houses of the Oireachtas Commission. I wish to make two basic points in that regard. The Bill relates to the Parliament, which is comprised of the two Houses. In that context, the

*1 o'clock* distinction between the Houses of the Oireachtas and the Executive branch of Government is explicit in the Constitution. Under the latter, there must be a clear separation with regard to the roles and functions of the two. If we were to transfer responsibility for the thorny issue of ministerial expenses to the Houses of the Oireachtas Commission, it would blur the constitutional lines. In addition, it would import an

element of politics which might not perhaps best serve the interests of the commission or the Houses. Let us have the debate on that matter on another occasion.

The Minister for Finance has been extremely active in this area in the context of increasing the level of transparency with regard to ministerial expenses. I cannot indicate the level of cost incurred in replying to parliamentary questions or freedom of information requests in respect of ministerial expenses. The Minister's initiative in this area in the context of publishing details of such expenses, either on the Internet or in some other form, on a monthly basis is the correct route to take. Hoarding information over a period or encouraging the perception that it must be dragged out of Government serves no one's interests. However, I reiterate that the Executive branch of Government and the Houses of the Oireachtas are separate entities.

**Senator Liam Twomey:** Did the Minister of State indicate that details of ministerial expenses are being published every month?

**Deputy Peter Power:** I said that the Minister for Finance is making proposals in that regard.

**An Cathaoirleach:** In accordance with an order of the House of this day, proceedings must be suspended between 1 p.m. and 2 p.m. We will resume our deliberations on the Bill at 5.30 p.m.

Debate adjourned.

*Sitting suspended at 1 p.m. and resumed at 2 p.m.*

#### **Business of Seanad.**

**Senator Donie Cassidy:** I propose an amendment to the Order of Business in light of everything happening in the other House as well as in this House, that No. 2, motion re Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009, shall be taken at 5.30 p.m. on the conclusion of statements regarding the report by the Commission of Investigation into Catholic Archdiocese of Dublin.

**An Cathaoirleach:** Will the statements be adjourned at 5.30 p.m. rather than concluded?

**Senator Donie Cassidy:** We will not conclude the statements. We will adjourn them at 5.30 p.m.

**Senator Liam Twomey:** Is there a time limit for the motion?

**Senator Donie Cassidy:** It is envisaged that it will be a short period of time — 40 to 45 minutes. We will not guillotine it. I understand the Dáil had 50 minutes.

**An Cathaoirleach:** Is the amendment to the Order of Business agreed? Agreed.

#### **Houses of the Oireachtas Commission (Amendment) Bill 2009: Second Stage (Resumed).**

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

**Minister of State at the Department of Foreign Affairs (Deputy Peter Power):** Senator O'Toole's contribution focused almost exclusively on audit matters. I thank him very much for that contribution, informed as it was by his experience and expertise in this area. Before addressing the proposals he made, the first point to make is that although good corporate governance should apply to all institutions, it does not necessarily mean corporate governance is the same in all institutions. Institutions, whether stand-alone corporate bodies, civil society

[Deputy Peter Power.]

bodies, semi-State bodies, Departments or the Houses of Oireachtas Commission, are all entities but the same rules of governance do not necessarily apply to all of them. What applies in the private sector in terms of good corporate governance is not necessarily applicable to other entities.

I draw a distinction between the Houses of the Oireachtas Commission and other Departments. Unlike other Departments, the Houses of the Oireachtas Commission effectively administers expenditure. It accounts for expenditure channelled to Members, committees and so on. Salaries are an enormous part of it. There are no major spending programmes, or there is no major outsourcing of programmes, where the commission's expenditure would be channelled to other parties or entities which would give rise to the potential or capacity for things to go wrong. This is effectively the proper and appropriate accounting of money which is administered in this building in a very limited way.

Therefore, the question which arises is that raised by Senator O'Toole as to whether the audit committee should report to the chairman of the commission as distinct from the Secretary General. There is a very real distinction here in that the Secretary General is by law the Accounting Officer. He or she is personally charged with accounting for the moneys over which he or she is responsible because of the position he or she holds. In turn, he or she must account to the Committee of Public Accounts. That is a personal responsibility held by one person.

**Senator Joe O'Toole:** Perhaps I was misinterpreted. I did not say "either-or"; I said "also".

**Deputy Peter Power:** I know. That is why I am making a distinction because I do not believe it should be "also" and that the audit committee should report directly to the chairman as well. In trying to explain that, I pointed out that essential distinction. The role of the Secretary General is to account for moneys and to ensure they are appropriately spent. That is not the role of the chairman of the commission.

The primary role of the chairman of the commission is the orderly functioning of the committee, carrying out ceremonial duties and ensuring the aims and objectives of the commission are adhered to at all times. He or she is not the Accounting Officer and does not account for the money *per se*. Therefore, for the audit committee to report to him or her would be unnecessary.

In a sense the audit committee reports to the chairman because it reports to the commission in its annual reports. However, if it was to take on the role of advising the chairman of the commission, to which I believe Senator O'Toole is coming, or if it was obliged to do so under the legislation, it would put the chairman in a completely different situation from the role given under the legislation. He or she would be advised as to the proper accounting and expenditure of moneys under the control of the commission. However, that is not his or her function but the function of the Secretary General. For those reasons, we must draw a very clear distinction.

There is no reason the audit committee cannot retain professional services, whether consultants or otherwise. There is no need to empower it in that regard. It is envisaged that the outside members of the commission, the people with much expertise and of high professional standing, would be the best people to advise the committee. We can deal with these issues in greater detail on Committee Stage.

I have dealt with Senator Alex White's issues concerning the functions of the commission under section 4. In terms of accountability, he raised the point about whether the commission should be, in some way, accountable to the Dáil, perhaps through an Oireachtas committee. The commission is accountable to the Dáil through the parties represented on it. It is the function of representatives to account to their respective parties or the Minister for Finance, while at the same time acting collectively in the best interest of the Houses of the Oireachtas.

Question put and agreed to.

**Acting Chairman (Deputy Paul Coghlan):** When is it proposed to take Committee Stage?

**Senator Diarmuid Wilson:** Now.

Agreed to take Committee Stage today.

**Houses of the Oireachtas Commission (Amendment) Bill 2009: Committee Stage.**

Section 1 agreed to.

SECTION 2.

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

**Senator Joe O’Toole:** I draw the attention of the Minister of State at the Department of Foreign Affairs to a provision in the Bill which is very relevant to ongoing events. Section 2 states: “the office of the public service that is staffed by civil servants of the State” and section 8 provides that any civil servant transferred to the Houses of the Oireachtas becomes a civil servant of the State. I accept this provision cannot be changed now but I wish to draw attention to the language used, which I think should go out the window. Irrespective of whether one is a teacher, nurse or civil servant, one should be called “public servant”. This is a stumbling block to proper reform of the public service so that people can transfer to various areas. I guarantee that hardly a Member of the Cabinet could explain without prompting the difference between “civil servant” and “civil servant of the State”. I know the difference because it is my business to do so and the Minister of State’s officials will also understand the issue. This is another instance of constructing walls around fiefdoms. Reform of the public sector will be undermined by these silly matters because people will be rushing to the courts to argue their contracts say they are this and not that. These titles should all be changed to “public servant”.

**Minister of State at the Department of Foreign Affairs (Deputy Peter Power):** I cannot disagree with Senator O’Toole’s arguments. While he is not making a formal proposal in regard to the section, there is great wisdom in what he said. Many people would find it difficult to make the distinction.

Question put and agreed to.

Section 3 agreed to.

SECTION 4.

Question put: “That section 4 stand part of the Bill.”

**Senator Joe O’Toole:** A number of speakers on Second Stage asked about the running of the Houses. We could have approached this issue in two ways. Most other parliaments have introduced commissions which divide immediately into two parts. One part deals with the matters provided for in this Bill and the other does the work currently done by the Committees on Procedure and Privileges. I guarantee that the Minister of State cannot indicate where the responsibility of the Committees on Procedure and Privileges ends and the Houses of the Oireachtas Commission begins. What happens if the commission takes a decision which is accepted by one committee but opposed by the other? Having sat simultaneously on both the commission and the Seanad committee, I have experience of having to take different perspectives on issues depending on the forum in which they were discussed.

[Senator Joe O'Toole.]

It is nonsense but Members do not want to lose the committees' powers because they want to hold onto to their empires and fiefdoms. The commission regularly takes decisions which impinge on the committees. The members of the Dáil committee never notice because they are not that bright but the Seanad committee always notices when lines are crossed. One body should be in charge. The Dáil committee never causes problems for anybody but we are different.

**Acting Chairman:** Does the Minister of State want to defend his House?

**Deputy Peter Power:** I am distinctly in the minority, although I agree with Senator O'Toole. He is not proposing to oppose the section. The term "Committee for Procedure and Privileges" comes from a bygone age.

**Senator Joe O'Toole:** One is reminded of religious superiors.

**Deputy Peter Power:** The architecture of the Commission was established by the Houses of the Oireachtas Commission Act 2003, which is being amended by the Bill before us.

Question put and agreed to.

## SECTION 5.

**Senator Liam Twomey:** I move amendment No. *a1*:

In page 5, between lines 12 and 13, to insert the following:

"(4) On becoming aware of any breach of the application of the code, the Secretary General shall advise the member that a breach has occurred and the implications of such a breach."

This amendment makes it clear that the Secretary General of the Houses of the Oireachtas Commission shall be responsible for advising commission members of breaches.

**Deputy Peter Power:** After considering the amendment, the Minister for Finance does not think it appropriate to confer such an obligation on a statutory basis. As members of the commission might be deemed to report to their chairman in the first instance, the amendment could affect the balance of power. In any case, section 16 of the 2003 Act provides that the Secretary General may advise the Commission and its chairman on the performance of functions. The Secretary General is also an *ex officio* member of the Commission.

**Senator Joe O'Toole:** Senator Twomey has proposed a reasonable amendment but it will be impossible to implement because the Dáil, Seanad and commission have separate codes of conduct. If somebody breaches a provision which is common to the three codes, who will respond? This is a mess. The amendment is well advised in not prescribing punitive action because that would be constitutionally prohibited. However, one would imagine that it should not be difficult to bring people's attention to, for example, the abuse of envelopes, which is addressed by the codes of practice of the commission and both committees. This problem will have to be addressed at some point and, while I understand why the Minister of State cannot accept the amendment, it makes a reasonable proposal on what should be done in the event of a breach.

**Deputy Peter Power:** I do not know the answer to the Senator's questions. However, we cannot prescribe in the legislation the sanctions or warnings which the commission shall set out.

**Senator Liam Twomey:** Senator O'Toole has given a better explanation than I could thanks to his great experience of these matters. He identified the problems that could arise if a significant event warranted reference to the legislation.

Amendment put and declared lost.

Section 5 agreed to.

Sections 6 to 9, inclusive, agreed to.

#### SECTION 10.

**Senator Liam Twomey:** I move amendment No. *b1*:

In page 6, line 29, after “Commission” to insert the following:

“and of this group not more than 1 shall be a member of a political party which for the time has members who form part of the government”.

There should be all-party membership of the audit committee now that its function has changed. I do not recall whether the Minister of State explained, when he was wrapping up the Second Stage debate, the difference between the statutory and non-statutory nature of the audit committee.

**Deputy Peter Power:** Putting the audit committee on a statutory basis reflects the fact that audit committees of other Departments have a statutory basis too. It gives some form of protection or architecture within which the audit committee can operate which is necessary because of the nature of its work and the sort of world we live in now. This is deemed to be good and best practice. This is not to suggest that it would not work on a non-statutory basis.

The Minister has considered Senator Twomey's amendment carefully and he appreciates its underlying logic but he believes that such an arrangement might best be left to political agreement on arrangement with the Whips. Appointments to this post must be made on the basis of competence and the skill to do the job. The availability of suitable individuals within political groupings of the House will vary from time to time, as I am sure Senator Twomey would agree.

**Senator Liam Twomey:** It does not vary all that much.

**Deputy Peter Power:** I know the Senator will make that case to the electorate in the next general election. We should not, therefore, unduly restrict the pool of talent from which qualified, willing candidates can be drawn. In the circumstances, the Minister cannot accept the amendment but he understands the logic behind it.

**Senator Liam Twomey:** I would hate to see a situation occur in which the Government would find it difficult to find one person to represent it on the audit committee or that there would not be two people available from the Opposition to fill an auditor's position.

**Deputy Peter Power:** That would be a very difficult situation.

**Senator Liam Twomey:** That would be unusual to say the least. Does putting the audit committee on a statutory basis involve a change in the responsibilities of the members or does it place any additional burden on them?

**Deputy Peter Power:** No. It simply places the committee on a statutory footing.



Amendment put and declared lost.

**Acting Chairman:** Amendments Nos. 1 to 3, inclusive, are related and will be taken together by agreement.

**Senator Joe O'Toole:** I move amendment No. 1:

In page 7, subsection (7), line 6, after “Commission.” to insert the following:

“The Secretary General and Head of Finance may attend meetings though not as members of the committee.”.

I would really like the Minister of State to take on board the issue covered by these amendments. When I was a member of the Commission I was given the On Board document, entitled A Guide for Board Members of State Bodies in Ireland, which stated that the chief executive, head of finance and head of internal audit should attend meetings, although not as members of the audit committee. I struck out the “head of internal audit” because that is the Comptroller and Auditor General in general terms. My first amendment provides that they may attend meetings.

The Minister of State could be seriously embarrassed by some of the points he made in winding up the Second Stage debate because he appeared to be saying that in some way this is a smaller operation. I know, or hope, that he did not intend this to be the case. This commission deals with €120 million per year. Most semi-State bodies do not deal with anything like that amount of money but they are still required, quite rightly, to deal with audit committees.

Senator Alex White made an interesting point this morning when he asked what kind of pressure we are putting on these people who receive only €16,000 a year to do the job. There are many semi-State bodies on which people receive half that amount and they must comply with every comma of the On Board guide and the code of practice for the governance of State bodies issued by the Department of Finance. I discussed this last night with members of the Committee on Public Accounts whom I will not embarrass by naming but they completely agree with my points. This is a serious matter. It is crucial that the head of internal finance and the Secretary General in this case will or may attend meetings of the audit committee to ensure nothing happens behind the Secretary General's back and the Secretary General can be there to deal with all sorts of matters. The head of finance is an important person who takes particular responsibility. That function exists within the Houses. It is not difficult to do this.

My second amendment refers to the Secretary General. The Minister of State said the Secretary General is the Accounting Officer. I agree completely. That is the basis of my amendment. The Bill states: “The committee shall ... advise the Secretary General”. The document issued by the Department of Finance this year states that a special arrangement must be made whereby the chairperson of the board is distinguished from the Accounting Officer.

The Minister of State has outlined that distinction quite correctly and that person may be called in front of the Committee on Public Accounts and others. My amendment has anticipated his words by saying that the committee shall “advise the Commission Chair on financial matters relating to his or her functions”. There is no conflict in what I am putting forward. I recognise and emphasise the different roles of these people. Stating that the Accounting Officer, who is the Secretary General, has a list of responsibilities seems to imply that there are no separate responsibilities for the chair of the board. The chair of the board is in charge of corporate governance as is written in one of the relevant documents I have mentioned. That needs to be included in the Bill. It is not there at the moment.

The Committee on Public Accounts recently questioned the chairperson of FÁS to explain what happened in that organisation. That man is a personal friend and I followed this case in great detail. In that organisation the audit committee advised the Secretary General and the board never saw that advice. I am not suggesting that will happen in this commission but we must anticipate that in years to come somebody might try to do that. The Bill provides that the audit committee advises the Secretary General. It does not need to go a step further. The Secretary General is not the commission but must decide what to bring before the commission.

How do these people know what they have to do? I am setting up a course in the House for every ICTU nominee to a State body because I want to go through a checklist of the things they must do. I hope to do this in the spring and I will be happy to invite the Minister of State to join us because I know he would be interested in it. I will give them a passing brief on what they need to do. Their relationship with the audit committee is crucial. The audit committee must be available to the board. It should guide the board and not rely on the Secretary General to tell the board its views at second hand.

If the Comptroller and Auditor General makes a report and issues a series of management letters to the Secretary General and, perhaps, to the audit committee, depending on the arrangements in place, as would happen under the arrangements set out here, the board members might never know that a serious management letter went from the Comptroller and Auditor General to the Accounting Officer. Nothing in the Bill requires that to happen. If, for example, over a coffee we talked about a board where something went wrong and someone expressed the view that board members, the directors, would surely know something about it and I said the board members were never told about it, the other person would think I was joking. Nobody would ever believe that something as serious as a management letter might never come before the board, but that can happen because of the way this is structured. The Minister of State should ask Members on the Committee of Public Accounts their view on this. They are trying to put this kind of protection into what they are doing.

The audit committee is there to advise and support the board.

**Deputy Peter Power:** It is there to advise the Secretary General and then report to the board. These are two very different things.

**Senator Joe O'Toole:** That is the point I am making. The committee is only there to advise the Secretary General and to report to the board. That is a serious flaw. Can we imagine a situation where an audit report would only be sent to the chief executive of a company? I could not envisage a situation where it did not go to the chairman of the board. That jumped off the page when I read the Bill, because I saw that the committee has to advise the Secretary General, but not the board and its chairman.

I am not asking the Minister of State to accept my amendment today. If there is a serious problem, the Minister of State should deal with it. I will not push it to a vote. I have made my point and the business of this House is to inform and to bring things to the attention of the Government. If the Department chooses to ignore it, that is the Department's business, but it will be on the record. There is no cost involved, but it means we can open a new set of dynamics within the operation of the board. It is something that can and should work.

When I spoke about independent advice, I was not talking about taking advice on things they were doing. I was referring to independent members of the commission who felt the board was going in the wrong direction, and the possibility that they could take professional advice.

Page 17 of the code of practice states the chairperson should provide interim reports regularly to a Minister. The commission does not have a finance committee, but in fairness, an audit committee could do this. I am not clear whether it does a quarterly budget report and whether

[Senator Joe O'Toole.]

the cash flow is in line with the budget. There are issues of safety on which we are taking a risk, and I ask the Minister to respond to them.

**Senator Liam Twomey:** I asked earlier where additional money was spent between the 2004-06 budgets and the 2007-09 budgets, which came to about €80 million. The Minister gave a breakdown on some of it, but can his officials give me a full breakdown on where all that additional money has gone?

**Acting Chairman:** That is not on this amendment.

**Senator Liam Twomey:** It is related to the section. It is a question about audit.

**Deputy Peter Power:** The request is certainly noted.

Note will be taken of what Senator O'Toole said, not least because of his experience in this area. I do not think I will be embarrassed by the comments I made in my reply on Second Stage. I was making the point that because the Senator was reading from a code of practice which applies to a different corporate entity, this does not mean *seriatim* that it must be applied in this particular circumstance. That is the only point I was making. Every public and private entity is different, be it corporate, non-corporate, Department, semi-State or this unique creature, the Houses of the Oireachtas Commission. The same codes of conduct ought not to apply in each and every case. That is not to say there should not be appropriate governance on all of these bodies. However, to apply the corporate governance rules of a large PLC to this would not work. The Senator made the point himself when he pointed out that the commission does not have a finance committee, because it just does not need one. He is correct that it does not need one, but the board of AIB plc, with all its imperfections, does need a finance committee.

**Senator Joe O'Toole:** The board of AIB actually does not have such a committee. None of the banks has such a committee.

**Deputy Peter Power:** That is another issue. The boards of many plcs and corporate entities have finance committees. It serves to illustrate the point that every entity is different. The reason the Minister cannot accept the amendment is because of its wording and the power it gives to the Secretary General. The Minister considers the amendment inappropriate in the case of the Secretary General, and unnecessary in the case of the head of finance. Therefore, the Minister does not propose to accept the amendment.

It is a core function of the audit committee to advise the Secretary General on an independent basis. It would be inappropriate to give the Secretary General an explicit right of attendance at its meetings. In practice, it would be a potential for influence in an area that any Secretary General would be reluctant to wield in corporate governance terms, having regard to the independence of the function of the audit committee. Senator O'Toole's amendment gives an absolute power to the Secretary General to attend all audit committee meetings. This does not preclude the audit committee from the right to invite in the Secretary General, but the Minister considers it inappropriate to give the right to the Secretary General to attend.

The attendance by the head of finance is already provided for in section 10(13). The head of finance currently attends most audit committee meetings as a matter of course, as the majority of issues of concern to the audit committee fall within the responsibility of the head of finance.

Amendments Nos. 2 and 3 propose giving the audit committee the function of the commission and the chairman on various audit matters. In keeping with public sector practice, it is the function of the audit committee to advise the Secretary General in his or her capacity as

the person accountable for the management and control of the administration and expenditure of the voted money of the commission. The Secretary General is in turn accountable to the commission as its chief executive officer for his or her performance of these management and control functions under section 15 and section 16, as amended by this Bill, of the current Act.

The Secretary General's accountability extends beyond the commission to the Comptroller and Auditor General on audit matters and to the Committee of Public Accounts. To give the audit committee the function of advising the commission, as distinct from reporting to it, would cut across the reporting role of the committee to the Secretary General and would not be in keeping with common practice in the public service, whereby internal audit and the work of the audit committee in reviewing it is a function that reports to management at the level of Secretary General, rather than a function of oversight at board level. In any case, the audit committee reports annually to the commission, as provided for in section 10(10)(b).

This goes to the core of the issue. It relates to the proper role and function of an audit committee in terms of its advice to the Secretary General, as Accounting Officer, on expenditure, and its reporting functions to both the chairman and the commission. That is the distinction the Government would make, which means we cannot accept the Senator's amendment on this occasion. However, his points have been noted.

**Senator Joe O'Toole:** I want to clarify a number of points. First, the documents I referenced were State body documents which had nothing to do with the private sector.

**Deputy Peter Power:** I accept that.

**Senator Joe O'Toole:** That code of practice for the governance of State bodies has been issued to every State body. I presume no one is suggesting the Houses of the Oireachtas Commission is not a State body of some description. It is clear a distinction is being made between the role of the Accounting Officer and the board's general responsibilities. Let me give an example in regard to what the Minister of State has just said. If the audit committee makes certain recommendations, it makes them to the Secretary General and that is where it ends. The commission is the only body which can direct the Secretary General. If the audit committee needs something done, it is either done with the acceptance and goodwill of the Secretary General, or else it has to sit there until it reports in some way or another, which may be six or nine months later. This is not a sensible way to proceed.

Another crucial aspect is dealt with in section 10(11) which reads:

The committee's duties ... include advising on the following:

. . . (c) appropriateness, efficiency and effectiveness of the Commission's procedures relating to [public procurement, risk management, financial reporting, internal audit and internal controls, among other issues].

It advises on the commission's method of dealing with these but it advises the Secretary General, not the commission.

The Minister of State should put himself in the position. For example, a person is on a board; he or she has taken certain decisions and put arrangements in place. When somebody goes to examine, test and proof them, he or she will not come back to that person but to the Secretary General who is the chief executive. If the Minister of State was a member of the board of directors of any body, whether it is the local GAA club or a Department of State, he would know it was not a sensible way to proceed. Not having a direct line of reporting from the audit committee to the board on a regular basis weakens, softens and makes less sound what we are doing in this instance.

[Senator Joe O'Toole.]

The Minister of State referred to the head of finance being on the audit committee. I am aware of that. However, while he seems to suggest this is covered in the legislation, it is not. The Bill includes a reference to financial functions, as the Minister of State said, but it does not necessarily refer to the head of finance, even though that is the person in place, which I completely applaud and which is appropriate.

When I became a member of the commission of the Houses, I was given a copy of the guide for board members of State bodies and told that this guide was what we were to follow. It states the chief executive and head of finance should attend meetings, although not as members of the audit committee. That came from the Minister of State's Department but the Department is now stating it is inappropriate. I cannot understand this. That is the advice on which people are relying.

**Deputy Peter Power:** There are two points. We have discussed the distinction between reporting and advising. The point the Senator makes about reporting on an ongoing or regular basis is well made. The audit committee has the function to report on an annual basis but is not prevented from reporting on an interim or *ad hoc* basis as matters arise. As the Senator correctly asks, is there any point in advising the commission six or nine months after the event? The audit committee reports on the basis of all the information collated and it is up to the commission to act on its report, or otherwise, as the case may be. Under the Bill, it is envisaged this will be done on an annual basis but it does not prevent the audit committee from doing so beforehand. This empowers the commission.

With regard to the functions of the Secretary General, I draw Senator O'Toole's attention to section 10(11) which refers to the official who is accountable to the commission and externally to the Committee of Public Accounts for the performance, management and control functions. While the commission is somewhat of an exception to the departmental model in that it has a board and exercises policy level oversight in a manner that does not apply to Departments, the essential role and responsibilities of the chief civil servant and Accounting Officer remain vested in the Secretary General. For this reason, it is appropriate that the audit committee should continue to advise the Secretary General in the first instance and report to the commission in the second instance. I make the point to be helpful to the Senator. Reporting to the commission empowers it to act or not, as the case may be, on foot of the report. Advising the Secretary General is a completely different matter; empowering the Secretary General to attend all audit committee meetings would not be consistent with it.

**Senator Joe O'Toole:** To conclude, the advice from the Minister of State's Department is incorrect in that it states the chief executive and head of finance should attend all committee meetings. There is no other conclusion to be drawn from it. I do not argue about the difference between advising and reporting, which I accept. All I am saying is the advice should also be available for the chairman. I will not push the matter further. I am happy I have said what I have to say. There is a definite conflict between the Bill and the position of the Department — there is no question about this; it is there in black and white.

The other issues I raised concern the code of practice issued to every board and semi-State body. In recent months I was on two boards which went through this document to make sure they were compliant. Nobody said it had to be exactly the same in every State body but it was accepted that every State body had to do everything contained in it, although not all in the same way. In this case, we are not doing that.

This is what happens all the time in politics. It is what drives us into the ground. We have different rules for ourselves and everybody else. I guarantee that this is what the document

appears to state. There are no winners in these situations. We should be a model of best practice and not follow others. We should be showing the way; we should be the guiding light on these issues, but we choose not to be. I have complete trust and confidence in the Secretary General and the head of finance, but that is not the issue. It is a matter of how we look at the issue and present the model. I will withdraw my amendments because I am not getting anywhere with them.

Amendment, by leave, withdrawn.

Amendments Nos. 2 and 3 not moved.

Section 10 agreed to.

Sections 11 to 15, inclusive, agreed to.

Schedule agreed to.

Title agreed to.

Bill reported without amendment

**Acting Chairman:** When is it proposed to take Report Stage?

**Senator John Hanafin:** Tomorrow.

**Acting Chairman:** Is that agreed? Agreed.

Report Stage ordered for Friday, 4 December 2009.

*Sitting suspended at 2.50 p.m. and resumed at 3 p.m.*

### **Report by Commission of Investigation into Catholic Archdiocese of Dublin: Statements.**

**Minister for Justice, Equality and Law Reform (Deputy Dermot Ahern):** I welcome the fact that Senators have made time available to discuss this important report. They will have had the opportunity to read and reflect on the report of the commission of investigation into the handling by church and State authorities of allegations and suspicions of child abuse against clerics of the Catholic archdiocese of Dublin. My initial reaction and I am sure that of every Senator was revulsion at the horrific details set out in the report. However, after that first reaction, it becomes clear from the report that a systemic, calculated perversion of power and trust was visited on helpless and innocent children in the archdiocese over a 30 year period.

Our first thoughts must be with the victims of this injustice. We all owe them a profound debt for their brave co-operation with the commission in its work. If there is any light in this horror, it is the outstanding selflessness they have shown in the face of great adversity in fighting for justice and bringing into public view the harrowing catalogue of the abuse of power. The Government has already expressed its appreciation to the chairperson and members of the commission for the extremely valuable work they have carried out. I reiterate that appreciation.

The findings of the commission are clear and unequivocal. The archdiocese's preoccupation in dealing with cases of child sexual abuse, at least until the mid-1990s, was the maintenance of secrecy, the avoidance of scandal, the protection of the reputation of the church and the preservation of its assets. All other considerations, including the welfare of children and justice for victims, were subordinated to these priorities. Furthermore, the archdiocese did not implement its own canon law rules and did its best to avoid any application of the law of the

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State. While I recognise that the archdiocese and the religious orders have made a significant contribution to the citizens of Ireland for many years, it is a matter of profound regret that the tradition of deference which so many showed to their church was, in so far as child abuse was concerned, entirely misplaced and had the effect of further abusing the victims.

The report, rightly, deals with the failings of agencies of the State. In its statement issued on publication of the report the Government, on behalf of the State, apologised without reservation or equivocation for the failures by the agencies of the State in dealing with this issue. As the report states, it is the responsibility of the State to ensure no similar institutional immunity is ever allowed to occur again. A number of the perpetrators have been brought to justice, proceedings are pending against others and a number of investigations are ongoing. It was because a number of cases were the subject of proceedings that it was necessary for me, in accordance with the provisions of the Commissions of Investigation Act 2004, to make an application to the High Court for directions as to the publication of parts of the report. The House will be aware that in the circumstances Mr. Justice Gilligan ordered certain redactions from the report.

The commission of investigation found that the situation regarding the handling of complaints of clerical child sexual abuse had improved in the 1990s. All complaints of such abuse made to the archdiocese and other church authorities are now reported to the Garda Síochána. However, in the past there were a number of inappropriate contacts between the Garda and the archdiocese. In the half dozen or so cases where Garda handling of cases is criticised in the report, a common theme is that deference to the church brought about a situation where individual gardaí treated members of the church as if they were beyond the reach of the law. The Garda Commissioner has expressed his sorrow that individuals who sought assistance did not always receive the level of response and protection they were entitled to expect from the Garda. Perhaps in those times gardaí were not unique in showing such deference. However, it is not now, nor ever has been, acceptable that institutions behave or are treated as being above the law of the State. I stress that this is a republic where the people are sovereign and no institution, agency or church can be immune from that fact.

In fairness to members of the Garda Síochána, it is only right to point out that the commission makes no criticism of current arrangements for investigating such allegations. Reflecting the comments of victims, the commission is quite complimentary about these arrangements. It points out that even in former times, a number of gardaí, to their credit, pursued these cases without fear or favour. I pay tribute to the professionalism and sensitivity of individual members of the Garda Síochána, as reflected by the positive comments made by the commission in their regard.

When I received the report last July, I immediately sent it to the Garda Commissioner and the Director of Public Prosecutions. Since that time, the report has been subject to scrutiny by senior Garda officers. In addition, I have discussed it frequently with the Garda Commissioner. It is clear from my contacts with him that neither he nor the force will rest until everything possible is done to ensure the perpetrators of this awful abuse pay for their crimes. He has asked assistant commissioner John O'Mahoney to examine the report's findings relating to the handling of complaints and investigations by both church and State, to carry out such investigations and inquiries as he deems appropriate and to make a report to him with his recommendations. He will then consult the Director of Public Prosecutions as to what issues arise in the context of criminal liability.

That examination of acts and omissions must be on the basis of the criminal law as it was at the time. We must be realistic about the difficulty in bringing charges against people who were involved in covering up abuse, in some cases a considerable time ago. Such difficulties are

outlined in the report. The Garda Commissioner and I are determined that everything possible will be done to progress this as far as possible. What the victims are entitled to expect is that the issue of criminal liability on the part of anyone in authority, either church or State, in the handling of these cases would be pursued fully and rigorously and this will happen. Assistant commissioner O'Mahoney and his team will have the full investigative powers of the Garda Síochána in carrying out this examination and they will pursue their inquiries, without fear or favour and wherever they may lead.

The Criminal Justice Act 2006 introduced a new offence of reckless endangerment of children, following a recommendation to that effect in the report of the Ferns inquiry published in October 2005. This makes it an offence for a person with authority or control over a child or abuser to intentionally or recklessly endanger a child by causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or abuse or for failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation.

On publication of the report I stated I believed there must be people who hold some memory or fact which can help bring these people to face justice and I appealed for those people to come forward. The Commissioner has also appealed to anyone who has experienced child sexual abuse and who has relevant information about criminal offences to contact the Garda. A dedicated phone line has been set up for this purpose and I will repeat the number in this House, as I did in the other House. The number is 01-6663066. People may also write to the Office of the Assistant Commissioner, National Support Service, An Garda Síochána, Harcourt Square, Dublin 2, marking the envelope, "Dublin Archdiocese Report".

The report notes that the Garda domestic violence and sexual assault investigation unit, based at Harcourt Square, was praised by many complainants who gave evidence to the commission. The work of this unit is now supplemented by a series of initiatives and measures designed to enhance the investigative ability of the Garda Síochána and provide specialist officers nationwide with the skills required to deal with victims of sexual offences. These measures include the establishment of a crime training facility and the training and appointment of specialist child interviewers based throughout the country.

Nevertheless and notwithstanding the positive findings of the commission with regard to current Garda practices, the Commissioner and I accept it is necessary to continually review approaches to ensure the highest standards and best international practice continue to be maintained. Against that background and having consulted the Commissioner, I am requesting the Garda Inspectorate, headed by Ms Kathleen O'Toole, former police chief in Boston, to carry out as part of its work programme a review of arrangements for dealing with allegations of sexual abuse of children.

I wish to deal briefly with some public comment made about paragraphs 2.23 and 2.24 of the report in which the commission set out its dealings with a body in Rome known as the Congregation for the Doctrine of the Faith, as well as correspondence with the papal nuncio. I have already made it abundantly clear both in the other House and in Brussels, when I made public comments, my strong view, which I believe is shared by all Members of this House, that any person or organisation, either within or without this State, with information relevant to the commission's work should co-operate fully with the commission. To do otherwise would be a further betrayal of the victims of abuse.

Contacts outlined in the report were in line with normal practice and, as such, they were dealt with at official and not political level within the Department of Foreign Affairs. That Department merely transmitted a message from the Vatican to the commission via the Department of Justice, Equality and Law Reform, the relevant line Department. It is stated clearly in



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paragraph 2.23 of the report that the commission decided, independently of Government, not to proceed further by means of diplomatic channels. I do not wish to dwell on this point but I would be less than frank if I did not say it is deeply saddening that some Members of the Oireachtas are of the opinion that the appropriate response to a report dealing with decades of dreadful cruelty to children is to indulge in mischievous and baseless political points scoring. My position has always been clear.

**Senator David Norris:** I invite the Minister to give the House an example in order that we know what he is talking about.

**An Cathaoirleach:** No interruptions, please. The Minister is speaking.

**Senator David Norris:** It is very important to know what he is talking about.

**An Cathaoirleach:** The Senator will have an opportunity to speak.

**Deputy Dermot Ahern:** I defer only to the people of Ireland by whose grace I hold public office. I reiterate that in our quest for justice, no institution at home or abroad, no church or state can shirk their undoubted responsibilities in this area. The commission dealt with this issue in two paragraphs of a 720 page report. Without in any way underestimating its significance, I hope Senators can agree that an excessive concentration on this issue carries with it the real danger of distracting from the far more profound issues which this report poses so starkly for the church.

Following a meeting between the Minister of State with responsibility for children and youth affairs and church leaders in late January 2009, it was agreed there would be a renewed engagement in developing a revised audit questionnaire to ensure the HSE, as the statutorily responsible body, is made fully aware of all cases of clerical child sex abuse known to the church, including the whereabouts of alleged perpetrators. A detailed questionnaire issued to each diocese and completed replies have been received by the HSE from the head of each diocese. The audit, as currently designed, will be finalised by 22 December in respect of the dioceses. It is hoped that a similar audit of religious orders may also be completed by that date. A number of dioceses have asked to resubmit their questionnaire responses and these requests have been assented to. This will of necessity entail a delay in the process but with the expectation that it will lead to improved outcomes. The returns have been submitted and child care managers who have undertaken the task of engaging with the dioceses are finalising their work. This involves face-to-face interviews with each bishop.

The newly appointed assistant national director of the HSE with responsibility for children and family services was commended by the commission of investigation for the manner in which he carried out his previous role as director of child protection in the archdiocese of Dublin. He has suggested that to verify the data provided, additional information will be required from the HSE in respect of each diocese. He has recommended that in addition to the information already supplied by the dioceses, the HSE's child care managers should request from the relevant diocesan bishops and provincials of each religious order the names of the complainant and the person against whom the complaint was made in respect of each allegation referred to in the audit return, the location where the matter was reported to the HSE and the Garda Síochána and the date the report was made. The child care managers will arrange for each internal HSE file to be checked to ensure the matter has been dealt with appropriately by the State and the diocese in question. A member of the national children and family social services team in the HSE will then liaise with the Garda Síochána to ensure receipt of all the allegations as referred to in the audit. According to the assistant national director, the collation

of this additional information will allow the HSE to submit a more detailed and comprehensive report to the Minister of State with responsibility for children and youth affairs. The Minister of State, Deputy Barry Andrews, supports this approach. The HSE will now write to each bishop requesting the additional information.

The exchange of soft information, that is, information which is available to authorities but where the person to whom the information relates has not been charged or convicted of a criminal offence, is a highly important aspect of child protection and a crucial step in improving our capability in tackling sexual abuse. The office of the Minister of State with responsibility for children and youth affairs, in co-operation with my Department, has commenced the process of preparing the heads of a Bill in respect of the use of soft information and is consulting other Departments, the Garda Síochána and the HSE regarding these draft heads. The findings of the commission's report with regard to the collection and sharing of information will be fully taken into account in this process. The proposed legislation will also have regard to the constitutional rights of persons, including the right to equality before the law, the right to a good name, the right to privacy and the right to earn a livelihood. It will also address the right to fair procedures and have regard to the European Convention on Human Rights.

In addition to this legislation, a revised edition of the Children First guidelines is to be published shortly and the guidelines will be promulgated throughout the public service. The office of the Minister of State with responsibility for children and youth affairs is committed to the preparation of legislation to ensure State employees and staff from key agencies in receipt of Exchequer funding and who are working with children will have a duty to comply with the Children First guidelines.

In responding to the recommendations contained in the Ryan report, the Minister of State with responsibility for children and youth affairs published an implementation plan last July which included 99 specific action points to improve the delivery of children's services. The plan is ambitious but represents an honest assessment of the improvements required. Two critical commitments in the implementation plan include the filling of 270 social work posts within the HSE's child protection service and the drafting by December 2010 of the legislation to provide that all staff employed by the State and staff employed in agencies in receipt of funding from the Exchequer will have a duty to comply with the Children First national guidelines.

The commission's report expresses concern about the statutory powers of the Health Service Executive to deal with child sexual abuse by non-family members. The office of the Minister of State will consult further with the Office of the Attorney General to seek clarity in this regard. However, in the wake of the publication of the Ferns Report in 2005, legal advice was sought from the Attorney General regarding the powers of health boards, or the HSE as it now is, to investigate and deal with instances of child abuse perpetrated outside the family. The Attorney General was not of the view that the HSE's powers under section 3 of the Child Care Act 1991 are limited to cases of intra-family abuse. Under this section, the HSE has powers "to promote the welfare of children ... who are not receiving adequate care and protection". The executive stated it responds to all allegations of child sex abuse regardless of the circumstances of the allegation. However, the office of the Minister of State with responsibility for children and youth affairs will consult further with the Attorney General's office on this issue in the light of both the comments by the commission and the recommendation of the Joint Committee on the Constitutional Amendment on Children to introduce legislation on the use of soft information.

The Government earlier this year requested the commission of investigation to extend its work to deal with the Catholic diocese of Cloyne because of concerns which had arisen there. The Government believes the work of the commission regarding the archdiocese of Dublin

[Deputy Dermot Ahern.]

and its forthcoming report on the diocese of Cloyne will serve the primary purpose of establishing what happened in order that lessons can be learned.

While there has been a sea change in recent years in the way this issue is dealt with, there are no grounds for complacency. It is the duty of Government to ensure all institutions in the State are subject to the law of the State without exception and, above all, to the laws which protect children. The Government will do whatever is necessary to ensure the old ways of responding to allegations and evidence of child sexual abuse will never return and the ways in which we handle them will be continually updated in the light of developing best practice.

It is correct that in this debate I have concentrated on the State's response in this area but the primary focus of the report is on the failings of the church authorities. No Government in a democracy can or should prescribe how a church should be run but we can ensure that all institutions, including the church, are subject to the laws of the State. During the debate I am sure Senators will stand firm in their determination that this must be the case.

**Senator Eugene Regan:** I thank the Minister for a comprehensive commentary on the report. I take issue with him referring to mischievous and baseless political points scoring because even that comment is misplaced.

**Senator David Norris:** The Minister could be right but he did not tell us what it was.

**Senator Eugene Regan:** The central issue in the Murphy report is the institutional response to suspicions, complaints and knowledge of child sexual abuse between 1975 and 2004. It addressed the response of both the church and State authorities. In the light of the comments in the report about the role of the Garda, the health boards and the HSE, one is entitled draw to the attention of the Minister, the Minister of State with responsibility for children and the Government how these matters should be dealt with and the appropriate institutional response. Where there is a failure in this response, it is legitimate to raise these issues with the Government. The Minister should not be so sensitive where he is called to account regarding failings of the justice system in this regard.

The Murphy report is exemplary in its thoroughness, erudition and sensitivity to the issue of child sexual abuse. It is thorough in its analysis of the internal workings of church law, canon law and the interaction between church and State authorities. In particular, it lifts the veil of secrecy on the church and gives us an insight into the workings and interconnection between the different authorities within it. While the terms of reference did not provide for the commission to determine whether there were cases of child abuse, the detailed analysis of individual cases highlights the systemic failure not only of the church but also of the State authorities.

The report concludes:

The Commission has no doubt that clerical child sexual abuse was covered up by the Archdiocese of Dublin and other Church authorities over much of the period covered by the Commission's remit. The structures and rules of the Catholic Church facilitated that cover-up. The State authorities facilitated the cover-up by not fulfilling their responsibilities to ensure that the law was applied equally to all and allowing the Church institutions to be beyond the reach of the normal law enforcement processes. The welfare of children, which should have been the first priority, was not even a factor to be considered in the early stages. Instead the focus was on the avoidance of scandal and the preservation of the good name, status and assets of what the institution regarded as its most important members — the priests.

The report refers to the suggestion by church leaders that they were on a learning curve regarding child sexual abuse and it points to the professional qualifications and academic background of the church leaders during the relevant period. It also points to the prescriptions in Canon Law and the long-established church procedures to deal with the issue of child sexual abuse by clergy. It is on that basis that Ms Justice Murphy did not find it credible for the church to invoke ignorance of the law as an excuse in those circumstances, but in the public mind there was a learning curve. It is only in latter years that we have come to appreciate the full horror of this vice in society and in our institutions.

The Minister alluded to the level of awareness, which has increased dramatically since the 1990s, but it took a long time. The report refers to social workers who were on the front line dealing with these issues. They told the commission that awareness and knowledge of child sexual abuse did not emerge in Ireland until the early 1980s. In the early stages of the period under examination, the deference paid by gardaí at the highest level of the force to the church is highlighted, as they did not consider that complaints of child sexual abuse fell within their remit. They felt it was more appropriate for the complaints to be dealt with by the church. It was only after the “Prime Time” edition, “Cardinal Secrets”, in October 2002 that a major co-ordinated investigation into this issue took place headed by the domestic violence sexual assault investigation unit of the Garda.

The issue of delay was a factor in the approach to prosecution by the Director of Public Prosecutions which indicated a lack of appreciation and understanding of the issue. The report outlines the evolution of thinking in regard to delay. There was the issue of the dominance of the abuser over the child affected and the report examined why the child would not make a complaint. The test was recently determined by the Supreme Court that it was an issue of whether there could be a fair trial of the person accused. It has taken a long time for all of the institutions to fully appreciate the horror and carnage created by this abuse. I refer to its insidiousness and how difficult it is to tackle.

In its analysis of Canon Law a point emerges in the report that is most telling, namely, that when they complained, the main concern of the parents of an abused child was that other children would not be subject to the same abuse. That their complaint was not followed up, given credence or treated seriously by the church is what they found most offensive.

It also shows a lack of precision in Canon Law on this issue, a lack of knowledge among church leaders of the provisions of Canon Law on the issue but, most insidiously, the secrecy and confidentiality that go to the core of the problem. This is the need to protect the institution and bind the complainant to secrecy and confidentiality. Some light emerges in this chapter with Archbishop Connell being one of the first bishops in the world to order trials of priests under Canon Law. There is also light at the end of the tunnel in respect of the procedures, albeit adopted belatedly, beginning with the framework document in 1996. However, the failure of the church to implement its Canon Law rules in this period is extraordinary. The focus was always on the accused. In many cases, where allegations were made against a priest, he was allowed to continue in his ministry, even though he had made admissions of guilt. I refer to the cynical way in which many complaints were treated such as that of the mother who complained and was told the complaint would have to come from her daughter if it was to be taken up by the church. The report methodically analyses the respective roles of individual bishops and archbishops. There is significant change over the period and the general conclusion is that, with few exceptions, they behaved very poorly in dealing with complaints. That changed in latter years with new procedures, the effect of legal action and public condemnation.

The report highlights the role of State authorities, the Garda Síochána, the health boards and the HSE. Many lessons can be learned in this regard. The report points out that Garda

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investigations into various complaints were sometimes comprehensive and at other times, cursory. Many of the complainants who gave evidence to the commission praised the professionalism and courtesy encountered when making complaints to the Garda Síochána specialist child sex abuse unit at Harcourt Street, Dublin. The commission notes that investigations carried out by the unit are generally well conducted. It suggests the unit should have responsibility for investigating all child abuse complaints because of the expertise it has developed. That is a recommendation that should be taken up.

The report points to the need to clarify the role of the HSE in respect of non-family abuse and set out its powers to perform that role. These issues must be addressed by the Minister and the Government.

The Stay Safe programme deals with inappropriate sexual contact and secrecy and is designed to help children to be more aware of the possibilities of interference and abuse. I bring to the attention of the Government the reaction of the church to the introduction of the programme and the fact that it is not being implemented in all schools. It is only implemented in 85% of schools.

I refer to the report on children in institutional care and the 2008 care inspection report of the Health Information and Quality Authority. This shows various elements of the system where the necessary safeguards are not in place. We can talk about the past and the hurt and suffering of those affected but we must ensure we learn lessons from the information contained in the report. We must introduce the necessary protections in State institutions, not just within church institutions.

**Senator Denis O'Donovan:** It is with a heavy heart that I speak about the horror story emerging from the Murphy report. It is certainly not bedtime reading. Having studied the Ryan report and now this report some months later, it is very sad that our society has come to this point. Regrettably, this has been ongoing for most of my lifetime. I recall a tale told to me as a student in 1973 or 1974 by a visiting medical expert from the mid-west in the United States. He was visiting west Cork because of his Irish connections. Over a turf fire, he related to my late father the story of a clerical person who had gone to Chicago or Boston to seek guidance or assistance following the abuse of a young lad. He did not say it in a condescending way because he was a Catholic. However, my father would not believe it and went to his grave believing it had been a concocted story because — God be good to the man — he saw no wrong. He said the rosary every night. I was 17 or 18 years old at the time and it resonates with me that if this information was available at the time, what we see documented in the report also happened in the 1960s and 1970s. It is appalling.

The response of the archbishop, bishops and others concerned — I will not name individuals — must have a greater impact. Therefore, more needs to be done within the church. I said on the Order of Business the other day that structural damage had been done to the church as an institution — that is my deeply held view. I am not saying I am a great Christian or Catholic; I still have deep faith but this damage will have to be repaired. However, the State can only do so much. Ireland was known internationally as the island of saints and scholars. If people read the Ryan report, this and further reports which no doubt will be published, it will take future generations a long time to have the same trust and faith in the church that people had in the past.

There was a big furore over the incident involving the then Bishop of Kerry but that was petty compared to cases in which there was interference with children.

**Senator David Norris:** It was.

**Senator Denis O'Donovan:** Such interference is appalling. I am aware of priests who left the church and subsequently married and I laud them for their honesty and integrity. They were probably not happy in their chosen careers.

I reiterate another point that I made on the Order of Business the other day, namely, that while a small percentage of clerics were involved in the abuse, there were hundreds, probably thousands, of good priests and nuns during the past 40 to 50 years who did extremely good work. However, all of that work was in vain because, as Judge Murphy clearly sets out in the report, in certain instances there was a cover-up of such abuse within the church which failed to respond. Nobody was defrocked or lost his job. Sometimes clerics who had abused were moved from one parish to another. That is appalling. There must be a response, whether from the Irish Catholic Church — we cannot broaden it to include any other denomination — the Vatican or the Pope.

I extend sincere sympathy to the young people who were abused, sometimes habitually, in the nastiest fashion for many years. This has to stop and we must ensure it never again happens as what happened was appalling. In a statement on 26 November the Minister of State, Deputy Barry Andrews, said:

Many perpetrators of abuse felt insulated from investigation. Even in cases where information was relayed to An Garda Síochána and the Health Board, there was an assumption that their elevated position in society would protect against criminal prosecution. Access to contemporaneous and accurate information relating to allegations of abuse was patently absent.

This is an appalling admission in 2009 and we hope it will never happen again. No law, whether it be State law, Canon Law, European law or conventions, can supersede the right of children to protection.

I chaired the all-party Oireachtas Joint Committee on the Constitution which examined family issues. Its initial report on the rights of children was initiated by the former Taoiseach, Deputy Bertie Ahern, when he wrote to my predecessor on the committee, now Minister for Finance, Deputy Brian Lenihan, in 2000. Obviously, he had received information that was a source of concern. Having trawled through documents, brought in various groups, received evidence and listened to various experts, we concluded in that report that the rights of children supported within the family, as enshrined in the Constitution, were not adequate. A special committee has since been established to consider a constitutional amendment on the rights of children. I have spoken to the Minister of State, Deputy Barry Andrews, as late as today, who has informed me that on or around 16 December he will launch a report on the work of the committee. If a constitutional referendum to enhance the rights of children in Irish law is needed, so be it. I have no doubt such a constitutional referendum would be very well received, that we would have the highest turnout of voters in decades and that the referendum would be carried.

There is a view that this issue may be dealt with adequately by legislation. I have not read every word of the Murphy report but I have read chapters and paragraphs of it and will reread some of them. I have also studied the Ryan report. A legislative response to this issue is not adequate. Constitutional protection is needed to safeguard the rights of children who are the most vulnerable in our society. Various rights are enshrined in the Constitution, including property rights, the right to receive support and an education. However, all of these rights pale into insignificance when compared to the rights of children.

I come from a large family and, thankfully, we were insulated from such abuse. When we read about the abuse of vulnerable children, someone has to cry, “Stop.” The whistle blown

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by Judge Murphy in her report and in the Ryan report, among others, should have been blown many years ago. The Minister of State, Deputy Barry Andrews, referred to successive Governments having neglected, perhaps not in a cynical or planned fashion, the role and rights of children. If anything is to come from this debate, the Government must move on its own to deal with the issue and let the church, in its independent fashion, deal with its own rotten apples. There are rotten apples in the church but the archbishop, in whom I have great faith and for whom I have great admiration, has faced the music knowing about the tsunami that was about to hit him. Even at Vatican level, the Pope must give a more concerted response. What must emerge is that the rights of children in our society in 2009 are paramount. Whether the issue is addressed through a certain framework, measures to ensure the protection of children must be upgraded to such an extent that what has happened in our society must never again be allowed to happen.

I suppose we are all to blame, cumulatively, in some way. We appear to think there are elite groups in society, in this instance, clerics. As an aside, I recall, as a young solicitor in the late 1970s or early 1980s, that if one wanted a medical expert to give evidence in a medical negligence case, one could not find anybody in the State who would give such evidence against a colleague, even in instances involving appalling negligence. One had to go at great expense to the United Kingdom or the United States to find a medical expert. On many occasions it proved so difficult that the case was dropped. That used to gall me as a budding lawyer. Whatever has to be done in 2009 must be done.

I acknowledge that the Murphy report finds that the Garda was not without blame but I welcome the Commissioner's response in appointing a senior Garda officer to carry out investigations. I wish him luck in that trawl. It baffles me——

**Senator David Norris:** Most of the gardaí involved behaved well.

**An Cathaoirleach:** No interruptions, please.

**Senator Denis O'Donovan:** I find it difficult to understand the reason no one has been jailed as a result of these abuses, although I accept some of the culprits may be in their graves. There has been talk of war crimes and so on. Some of the material contained in the Murphy and Ryan reports is almost as serious as what took place in a different fashion in Bosnia and other places in recent times. The Murphy report emphasises the absolute denial, arrogance and the cover-up involving several archbishops in the archdiocese of Dublin during the past 30 years. As a Christian, it is a source of great concern for me and the facts should be uncovered. I have spoken about the matter in this and the other House on several occasions.

There have been State tribunals to deal with several issues but the tribunal system has been abused. In case anyone misinterprets my comments, in my lifetime there have been several notable and necessary tribunals, including that which investigated the Stardust disaster, in which there was significant loss of life. It was a worthy tribunal which was short and quick. Another tribunal of note was that led by Mr. Justice Costello which investigated the Whiddy Island disaster, in which 50 lives were lost. That tribunal cost the State very little money. I do not believe in the model of a State tribunal to investigate the bribing of officials or corruption in the planning process. However, if ever a tribunal was needed to examine child abuse, I would put it at No. 3 in my order of priorities. This is something the State and the Minister should consider.

The report examines the period from January 1975 to 2004 and offers a snapshot of what took place. It lends great credit to the work of Ms Justice Yvonne Murphy. The commission investigated allegations made against a sample of 46 priests from a total of 102 and against

whom 320 claims or complaints had been made. Unfortunately, the stark reality is that the report is simply a snapshot of what took place. Although it does not please me to say this, I am of the view many victims were afraid to come forward and that some probably committed suicide or emigrated. What we have is a snapshot of an appalling episode in our history, of which I feel deeply ashamed as a citizen and father. As a result of the Ryan and Murphy reports, what happened must never be allowed to happen again. When the Minister of State, Deputy Barry Andrews, publishes the report which is imminent, I hope we will enshrine in the Constitution once and for all, such that it will last beyond our lifetimes, a clause to the effect that the abuse of children will never again be allowed to happen in the State. That is my wish and hope today.

**Senator David Norris:** I welcome the Minister of State. I am sorry his colleague, the Minister for Justice, Equality and Law Reform, is not here but I am sure he will pass on what has been said in the House in his absence. I have spoken to the Minister about certain aspects of these cases in the past and found him to be someone who is sympathetic, intelligent and on whom I can rely to take up the matters raised by me and others.

I do not gloat about this issue. It is desperately sad and shaming for anyone who calls himself or herself a Christian of whatever denomination. I feel the greatest sympathy primarily but not only for the victims but also for the decent faithful — the ordinary, prayerful churchgoing people with a devotion to their church that has lasted for centuries. I feel really sorry for them because their faith has been diminished and weakened by the atrocious behaviour of the senior officers of their church both here and in Rome at the very highest level, to which this goes. I also feel really sorry for the good members of the religious — priests, nuns and brothers. I know of many, for whom this is most desperately painful. They will get the abuse on the street and very often this will happen to the decent ones, those who have sacrificed a life and lived the imposed life of celibacy. The imposition of celibacy is a grievous moral wrong committed against those who aspire to the priesthood. I have these feelings of sorrow. However, this was all too predictable.

In an early story, *The Sisters*, James Joyce isolated the entire issue and came to the same conclusions made in this report. It is the story of a priest with no vocation. Having discovered this and challenged his idea that God exists in the fundamental sense, he retreats from that discovery into a barren exploration and imposition on a child of the niceties of Canon Law. This is seen as the real violation of the child, even though there are suggestions of child abuse also. How prophetic was the mind of James Joyce 100 years ago to see this cancer at the heart of the church?

Just as in the case of Mr. Nixon, the difficulty does not lie simply in the commission of these acts. The real damage is being done to the church by the cover-up. In Nixon's case it was not the burglary but the cover-up. As grievous, dreadful, appalling and unforgivable as the violations of children's rights and innocence were, it is the cover-up that will be the long burning fuse that will do the damage, as well as the retreat to Canon Law which is club law. The rules of no church can supersede the laws of the State, nor should they. However, we know that actually they do and that they have done so, with the connivance of Governments of all hues, including those involving the Labour Party and Fine Gael.

I understand this is a practical matter and refer to the exemptions granted under equality legislation to all of the churches. This is an area in which the rights and welfare of children are handled. Repeatedly, in the recent months I have highlighted in the House how the rights of children were violated legally by the church because of this exemption. I put this directly to the Minister of State and call on him to take it back to his colleagues. If he does one thing, let him end the abuse of privilege and make the Minister's words uttered at the weekend real,



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when he stated no institution and no church was above the law of the land. That is the position as it should be but it is not the position as it stands.

Having read the report, will any Minister inform me if it is appropriate that, principally as a result of lobbying by reactionary elements within the Roman Catholic Church, the welfare of children under the Civil Partnership Bill, under discussion in the adjoining Chamber this very day, will once again be violated? I will vote against the Bill because it constitutes a further systematic, deliberate and knowing abuse of the rights, not of gay parents, but of children in the State. I call on the Government to clean up its act.

The report comes in three parts. The first sets out the parameters and investigates the implications of certain cases but does not go into the detail of particular cases. The examination of particular cases is outlined somewhat more in part 2, while part 3 is the appendix.

I refer to the manner in which complaints were dealt with by the church. The report dismisses completely and as laughable the idea that senior church people were on a learning curve. That myth is exploded. They knew very well the seriousness and the implications of what was happening. However, the only implications in which they were interested were those related to the avoidance of scandal, their reputation and the good name of the offending priests. How extraordinary is that? What good name did they have? They were also interested in the preservation of assets and set about looking for insurance. This tells us they knew well enough what was taking place. As they were cute enough to look for insurance, they knew bloody well something was going on. Every bishop's primary loyalty was to the church, which included taking out insurance to protect the assets of the church.

This was not unique to Ireland. It happened also in Boston in the United States of America, admittedly with the involvement of Irish personnel for the most part. The report of the Massachusetts attorney stated secrecy protected the institution at the expense of children. The report highlights some of the most appallingly savage ironies. For example, how many of the priests concerned were appointed to official positions in marriage tribunals? Does being involved in paedophilia, chronic alcoholism and serial adultery qualify these alleged celibates to serve on Catholic marriage tribunals and instruct unfortunate women on how to conduct their sexual lives? What is detailed in the report is astonishing. Bishop Kavanagh attempted to influence the Garda. I would have thought that to be a criminal offence. All through the report the trail runs back to Rome. The commission finds that the events it investigated happened because bishops were appointed not on the basis of their moral or intellectual authority but rather because of their doctrinal orthodoxy. In such circumstances, how could the outcome have been any different?

Some behaved comparatively well. Monsignor Stenson, for example, clearly, thoroughly and forensically examined and investigated matters brought to his attention. I accept that he may not have possessed the skills to deal with complainants but he certainly did his work well. The position is the same in respect of the Garda. However, I refute Senator O'Donovan's contention that the highest ranking officers acted well in dealing with these matters. These officers were useless and craven and reported to the archbishop. It should have been the other way around. Younger members of the force rebelled against this. I thank God for these individuals and their honesty, decency and courage. We are aware of how the church dealt with whistle-blowers. I am sure the Minister of State, Deputy Moloney, will remember that remarkable man in Maynooth — I cannot recall his name — who blew the whistle on Monsignor Michael Ledwith. The bishops ganged up on him, effectively silenced him and then ran him off to some little bog hole. That is how people were dealt with when they told the truth.

There is work for the Oireachtas to do on this matter. The report indicates that the Child Care Act 1991 does not sufficiently clarify the powers and duties of the health authorities. I ask the Minister of State to make a note of this fact and ensure amending legislation is brought forward at once. The report also indicates that the families of victims behaved charitably towards priests and attempted to understand the difficulties experienced by the latter. However, neither the State nor the church lived up to its responsibilities.

Let us turn to Rome and the Congregation for the Doctrine of the Faith. It is appalling that letters sent by the commission to the papal nuncio were ignored and that diplomatic matters of etiquette were identified as being more important and relevant than protecting children from serial rape. It is unfortunate and to the detriment of the church of Rome that it is both a state and a religion. My thinking is the same with regard to the Church of England. It is a mistake that the Queen of England is head of the latter. That is an historical nonsense and the Church of England would be better off without it. The papal nuncio is a diplomat and he should be called in by the relevant Minister. Serious questions arise about the functions of the embassy of a tiny and unrealistic state. The individual to which I refer is the head of that embassy's diplomatic corps in Ireland. The Congregation for the Doctrine of the Faith — formerly the Inquisition and previously presided over by Cardinal Ratzinger, now Pope Benedict XVI — and the papal nuncio have a great deal for which to answer.

The report identifies the patronage of 477 national schools as being among the functions of the Dublin archdiocese. That is a matter to which consideration must be given, particularly in view of the fact that taxpayers' money is allocated to such schools. The church can sack people who work in these schools if it does not approve of their lifestyles and such individuals have no legal recourse. Will the Minister of State reiterate what has been said to the effect that the church is not above the law in the State? I am of the view that it is most definitely above the law. Cardinal Connell who no doubt is a well meaning academic is quoted in the report as stating:

I think the Commission will have to accept that on my first meeting of the Congregation for the Doctrine of the Faith, I took an oath that I would not reveal what was discussed at meetings of the Congregation and I will of course be as true to that oath as I am to the oath I have taken here.

Again, it is obvious that the rules of the church supersede those of the State.

There is the extraordinary situation where the guilt of priests was diminished if they were determined to be paedophiles. Such priests were treated well and sent to institutions of very doubtful repute where they were repackaged, returned and then sent to new parishes. Why have the names of the consultant psychiatrists who dealt with these individuals not been provided? I would like to know their identities rather than merely been informed that assessment or treatment was provided by the Granada Institute.

Let us consider the way priests took evidence from victims. In that context, a handwritten note attributed to a Fr. Dolan reads, "gain his knowledge/tell him nothing". In other words, the idea was to place victims at a disadvantage. There is also the matter of misprision of felony, a matter into which I will not go.

I refer to the case involving Mervyn Rundle. I previously referred to the concept of guardian *ad litem*, which I was responsible for having included in law. A guardian *ad litem* is someone who represents the interests of a child. This concept only came into play in one case, namely, that of Mervyn Rundle, in which a friend of the family represented that individual and his parents. The letter relating to this case which is contained in the report should be read by

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everyone, particularly the final accusatory paragraph in which the author lays it on the line in respect of what must be done.

Let us consider how Archbishop McQuaid dealt with the case of Fr. Edmondus who took photographs of the genital organs of nine year old girls. The archbishop thought Fr. Edmondus had displayed an understandable curiosity and innocence and, after all, all he was doing was taking photographs. How extraordinary. If one considers the case of Marie Collins, one can see how victims are patronised and treated like dirt. Cardinal Connell informed the commission that he did not remove Fr. Edmondus from his parish and that, “This gave rise to a lot of trouble from one of the victims.” In other words, Ms Collins was a source of trouble and an inconvenience to the church. Contrast this with Archbishop McQuaid’s understanding of the wonderment of Fr. Edmondus when looking at female genital organs, allegedly for the first time.

Let us consider another case, namely, that of Fr. Vidal who began a relationship with a girl aged 13 years but who denied the existence of such a relationship. There was a relationship and it continued until the girl turned 21 years. He was then laicised and married the girl. Their marriage eventually broke down and Fr. Vidal applied to the church to be readmitted. He was subsequently sent to a monastery and returned to the church. This would be astonishing if it were not established fact. Immediately after these events Bishop O’Mahony began to shred the relevant documents. If that is not an indication of guilt, I do not know what is.

If victims gave evidence to the church in respect of the matters to which the report of the commission relates, they were sworn to secrecy. They were then informed that if they broke their oath of secrecy, they would be excommunicated. That is one of the things which prevented people from going to the Garda.

Some of the events that occurred were laughable. Please God, let the spirit of Jonathan Swift appear and do justice to this stuff. One of the priests to whom the report refers was treated with Depo-Provera, a strong contraceptive which the church has banned and outlawed but which it used on its renegade priests because it had the effect of chemically castrating them. There is also the extraordinary business of priests, in the aftermath of their offences, being appointed to marriage tribunals, to work as chaplains with Alcoholics Anonymous and youth clubs. That is just appalling. The assessment of the commission is that the handling of the large number of allegations was nothing short of catastrophic.

I will conclude by making two final points. The first relates to another priest who had relationships with eight women in Africa, 26 in Ireland and three elsewhere. It is indicated in the report that full intercourse rarely took place — obviously what the church would describe as a form of unnatural intercourse occurred — and that contraceptives were always used. This relates to a member of the priesthood, the other members of which will probably be preaching against his actions on Sunday next.

My final point relates to the letter on pages 459 and 460 of the report which was written by a wonderful person who is not named. The man in question acted as a true Christian friend to Mervyn Rundle and his family. The entire letter is worth reading but the fourth point it contains is signal. It states, “That the Roman Catholic Church which claims to be the moral guardians of the people treat child abuse in such an off-hand manner calls into question the Church’s ability to govern anything.” I am saddened by it. I do not gloat or wish the extinction of the church which has a long and extraordinary history in this country. I commiserate with the faithful and the good priests but this institution must be ruthlessly examined. Every diocese must be scrutinised. We cannot do a patchwork examination. What about the other victims?

Are they to be left in a limbo which will exist for them even though it has been theologically abolished by Rome?

It is a sad day but a good day that we have this report even with the gross insensitivity of the commission itself. I would like to say the following to it, and I hope it gets wind of it. Has it ever thought, or tried to imagine, not only what it is like to be a victim but to be a gay victim? It talked outrageous nonsense in regard to the case where a priest met a 15 year old youth in a gay club. He was poncing around parading himself as a chaplain to the gay community. The report said it would be very good to have a chaplain. It would not be after the abuse gay people have taken, including being called intrinsically disordered, objectively evil and a plague. That all came from the centre of the church and from Cardinal Ratzinger who sheltered some of these people who molested children. It would not be appropriate; it would be like having a Nazi on the Jewish council.

**Senator Dan Boyle:** In the last decade of the last century and in the first decade of this century, the totems of power and respectability in this country have crumbled. We have seen it happen in regard to our political and financial systems. In terms of religious structures, this report and others have undermined public confidence in those who portrayed themselves as being at the head of our society. As to whether this will be to our betterment going forward, we can only ensure it is by making sure all the information in regard to this tawdry and sordid history is brought to light. Every effort should be made to identify and help the victims.

The sad fact which this report, other reports and the need for other reports to be conducted reveals is that the rights of children were the last consideration, if considered at all, of those involved in these processes. It seems the prime consideration was the protection of an institution. If the aim was to protect an institution, it solidly failed in that policy goal because the institution is sadly discredited as a result of the activities described here, including the sordid acts committed on these children and the reprehensible behaviour which followed to ensure those who committed these acts were not brought before the law and made to account for their actions.

The numbers are frightening. The commission received complaints in regard to 183 priests and worked with a sample of 46 priests against whom complaints were made in regard to 320 children. As Senator O'Donovan said, this a snapshot of, or the tip of the iceberg in regard to, an activity that existed in our society, to which a blind eye was turned and about which nothing was said for decades. All of us should share in the shame.

The State authorities, whether through a lack of resources or compliance, ensured some of those guilty of these heinous crimes never saw justice. That is something with which the Legislature must deal not only in this debate but in terms of how we frame systems in future legislation to ensure it never happens again.

It was interesting that of the 46 priests examined in the sample group, only 11 pleaded guilty or have been found guilty in the courts. Some 35 of the sample group have not been brought before the courts. Of the complaints received in regard to the other 150 or so priests, we have no knowledge as to how many of them have gone through the system but we can presume it is a similar proportion.

There are many sad and all too human stories in this report. The one which struck me was the story of Peter McCloskey who was an abuse victim of a priest who was brought to the archdiocese of Dublin from Australia. The church authorities in Dublin were aware that the priest had been engaged in sex abuse crimes in Australia. As one of that priest's victims, Peter McCloskey was not only treated appallingly by the priest but subsequently by the State. He suffered severe psychiatric conditions as a result of his rape and became a victim of self-harm.

[Senator Dan Boyle.]

He was in and out of many psychiatric institutions, was given a great deal of medicine and was subjected to electro convulsive therapy treatment. This was all during a time when few, if any, believed his story. Peter McCloskey subsequently committed suicide. How a society can stand over a situation in which a person was abused as a child, went through the mental health system and was repeatedly failed by society is something for which the individuals named in this report must account and take action on. It is not enough, as some have said, that they have explained their actions.

The Legislature cannot say whether people should serve in particular ecclesiastical offices but we can say they have no right to be considered civic leaders on the basis of their behaviour in holding that office. Named individuals in this report need to look at their consciences and at their behaviour in regard to how they conducted their offices on behalf of the Catholic church.

I will not name people or engage in the blame game that goes along with this because the report speaks for itself and names people and identifies circumstances. Moral actions should follow the publication of the report and the public debate on it.

The general situation in regard to child sex abuse not only as it affects the Catholic church but how we, as a society, deal with it is still sadly deficient. This country is falling far behind in terms of the ability to identify its incidence and deal with victims and offer ongoing support. We may learn lessons from a report such as this but we can take no pride from what has gone on before and even less pride from what we are failing to do now.

If anything is to be achieved from the commissioning of reports such as this and the diligent way it has been put together by Ms Justice Yvonne Murphy, it must be that the recommendations are acted on quickly. The Government has given commitments in regard to the Ryan report. Whatever necessary follow through action is needed on foot of the report into the archdiocese of Dublin should be taken.

Senator Norris mentioned that since we have the Ryan report, knowledge of the situation in the diocese of Ferns and diocese of Cloyne, we need to gather information on where this has occurred elsewhere in the country. Few of us believe this was not a deeply ingrained problem. We can no longer go along with the notion that this level of incidence existed in society at large.

It is clear from the numbers involved and the way claims were managed subsequently in terms of support for perpetrators and near indifference to victims that a severe imbalance exists in the institution of the Catholic church. Sadly, this was a situation in which the authorities of this State were all too complicit.

I hope the legislation introduced over the past decade will address our sense of shame by preventing the recurrence of these heinous deeds. We must also treat the many thousands of child victims of abuse who are in real need of support with more than the indifference and ignorance to which they were previously subjected by the State. We must do whatever we can as a society to prevent abuse in the future and never again allow a culture of silence to develop. No balanced society would tolerate these deeds and we can only pray that we have finally put a close to this chapter of our history.

**Senator Ivana Bacik:** I welcome the publication of the Murphy report, which at last shines a light into a dark corner of our recent history. The report examined the period between 1975 and 2004 and its recommendations refer to ongoing issues of which we must take account. I commend Ms Justice Yvonne Murphy and her commission on the report's excellence and clarity of language. I am glad we have the opportunity to debate the report's findings, which have already been subject to intense debate.

As the Minister of State noted, the first reaction of anyone reading the report is revulsion at the appalling abuses perpetrated against children by priests who were in a position of trust and moral authority. As with the Ryan report, I found it very distressing to read about the litany of brutal abuse. I pay particular tribute to the survivors of abuse for their bravery in coming forward to the commission. The public interventions from Andrew Madden, Marie Collins and Colm O’Gorman were the catalyst for exposing the abuses and preventing their recurrence. However, the commission acknowledged that many victims or survivors could not be identified.

All of us feel angry that for decades priests were allowed to perpetrate their appalling crimes with impunity. Other speakers have referred to the small proportion of abusers who were convicted. At best, the church turned a blind eye to their activities and at worst it facilitated them over several decades. We should condemn the failure of both church and State authorities to deal adequately with the horrific sexual abuses against children.

I will speak briefly about the findings of the report before addressing the lessons we have learned for the future. The number 46 is referred to frequently because that is the figure for the sample of priests investigated by the commission. However, the commission found that complaints were made against a total of 183 priests in the Dublin diocese. To the commission’s knowledge, complaints against the aforementioned 46 priests were made by approximately 320 children but as it could not be sure that it had information on all cases of abuse even that limited sample of priests may have abused other children. The chapter of the report dealing with the convicted serial sex abuser, William Carney, notes that while the commission knows about 32 complaints, there is clear evidence of additional cases. These are shocking figures. One priest admitted to abusing more than 100 children and another accepted that he had committed abuse on a fortnightly basis over a period of 25 years.

It is no wonder this volume of child sexual abuse by clergy was described by a church source as a tsunami of abuse and an earthquake hidden from view beneath the surface. However, the commission took care to point out that the abuse was not hidden from those in the know within the church. Sexual abuse allegations against clerics were known about for several decades before the church began to take appropriate action. The culture of cover up only began to break down when brave individuals began to come forward in the mid-1990s. The report set out a brief history of sexual abuse in the church. Sexual abuse against children has been a delict under canon law since time immemorial and a 2,000 year record of biblical, papal and Holy See statements reveals knowledge of clerical child sex abuse. In Ireland, Archbishop McQuaid dealt with allegations of child sex abuse against priests in the 1950s and 1960s. In 1987, the Archdiocese of Dublin took out insurance cover on compensation for claims even though it was officially in denial. It was not until 1995 that the archdiocese provided the names of priests against whom allegations were made by the Garda and it only established its child protection service in 2003. All the archbishops who served during the period covered by the report knew of the existence of complaints, as did many auxiliary bishops, officials and priests. The vast majority simply chose to turn a blind eye.

Key among the report’s findings is the culture of secrecy that prevailed within the Catholic church and its obsessive concern with avoiding scandal. The report states: “Complainants were often met with denial, arrogance and cover-up and with incompetence and incomprehension in some cases”. This response caused many more children to be abused, in some cases over several decades, not only in Ireland but also as far afield as Japan and Africa.

We need to make progress on three areas in particular if we are to ensure this abuse never happens again in any institution of State or church. As legislators, we need to identify and address gaps in the child protection legislation and the Constitution. The Minister described

[Senator Ivana Bacik.]

the legislative progress being made to ensure that soft information about suspicions of child abuse can be shared. However, he did not address the need to legislate for the mandatory reporting of child sex abuse. He referred to the offence created by the Criminal Justice Act 2006, section 176 of which provides that it is an offence to recklessly endanger a child by causing or permitting him or her to be left in a situation which creates a substantial risk of serious harm or sexual abuse. That is an important defence which I very much welcome but it relates only to risk subsequent to 2006. It is not aimed at non-disclosure where there is no longer a risk. There is a gap in our law where misprision of felony was abolished and the offence under the Offences against the State (Amendment) Act 1998, section 9 of which covers the withholding of information on serious offences, does not cover offences causing sexual injury. As a result, we are in the rather bizarre situation where it is an offence under emergency legislation for a teacher, for example, to fail to report to a garda his or her belief a child has been seriously assaulted in the home but it is not an offence for him or her to fail to report a suspicion that a child is being sexually abused. We need to review this. There does not seem to be a mechanism for prosecuting those whose turning of a blind eye or negligence caused the continuation of abuse of so many children.

We need to enshrine children's rights in the Constitution from which they are notably absent. We need to ensure the HSE improves its record-keeping procedures. Chapter 6 of the report is particularly critical of the way in which it kept its files by reference to the name of the complainant rather than that of the abuser, thereby making it impossible to cross-reference and ensure it knew how many abusers there were. The Minister of State referred to the need to fill 270 social work posts to ensure implementation of HSE guidelines and child protection principles. That is very important. I am glad to see his commitment to this and promise of legislative backing for the Children First guidelines. We need to see this happen.

As citizens, we must consider the need for accountability and the taking of responsibility. Members of the Catholic church must consider how the culture of secrecy and cover-up was allowed to develop. There may be issues of celibacy connected with women priests but that is a matter for church members. It is valid for us, as legislators, to consider the role of persons in authority in the church who also have important roles in civic structures. Where bishops, for example, have a significant role to play in the secular and civic institutions of the State, as patrons of national schools, politicians are entitled to say they should resign where they have been found guilty of inexcusable behaviour, in the cover-up of the activities of priests who abused, thereby facilitating the continuation of the abuse.

I note the commission's reference to the very prominent role of the church in Irish life. In paragraph 1.90 it states it may be that the very prominent role that the church has played in Irish life is the very reason abuses by a minority of its members were allowed to go unchecked. A culture of deference persisted because of the prominent role the church played. We now see the remnants of this. The priests who were named as abusers filled roles that crossed between the church and the civic authorities. Two of those named as abusers — Ivan Payne being one of the most heinous — were chaplains at Our Lady's Hospital for Sick Children in Crumlin. The bishops who were implicated by having known of and dealt badly with the abuse are patrons of national schools, 477 of which are in the archdiocese of Dublin.

We need to consider the bigger role the Catholic Church has played and continues to play in our civic institutions and need to move away from a situation where a church which operated above the civil law and its own Canon Law in which child sex abuse was always a crime retains its prominent and privileged role. As a secular state and with the Oireachtas as the parliamentary system in a democratic republic, we need to take responsibility for our civic institutions, particularly schools and hospitals. There is an enormous problem within the national school

system. Over 3,000 of our 3,300 national schools are run by the Catholic church, although they are State-funded. Senator Norris spoke about the exemption granted in the equality legislation which enables schools to discriminate on the basis of preserving their ethos. It also allows schools to discriminate on the basis of religion when they accept children as pupils, which is another problem.

At a conference on Catholic primary education in contemporary Ireland held last May Bishop Donal Murray noted:

In the absence of a local alternative, parents may have no choice but to send their children to a Catholic school. This can cause difficulties for them and indeed for the school ... If the family find the Catholic ethos of the school unacceptable, however, there does not seem to be any obvious solution ... If withdrawal from religious instruction is not enough, then it seems that one would have to acknowledge that this kind of school is simply not suitable for that family.

Bishop Murray recognised and acknowledged that parents who did not wish their child to be brought up in the Catholic faith would have no alternative but to send their child to that Catholic school and that the child would be exposed to religious instruction throughout the school day. His admission that this means that “this kind of school is simply not suitable for that family” is extraordinary, yet it represents the truth that in this so-called republic we cannot offer children what the Constitution states we must offer them, the right to be educated in a way that is not in violation of the parents’ conscience and lawful preference. Article 44 enshrines the right of the child to attend a State-funded school without receiving religious instruction. We need to examine this much bigger issue because it relates to the culture of deference that has persisted for so long in which the Catholic church has held a privileged position in Irish society. From this position its members have operated with arrogance and contempt for the laws of the State and enabled known abusers in many cases to continue abusing, causing horrific damage to so many children for so long.

I welcome the Minister of State with special responsibility for children who has just come into the House.

The final chapter of the report makes for especially distressing reading. It describes the appalling impact the abuse had on the lives of so many of the children involved and their families. Of Marie Collins, one of the bravest of the victims, who came forward in a very lonely campaign to expose levels of abuse, it states: “After years spent trying to get her Church to deal openly and truthfully with the challenge posed to it by the scandal of child sexual abuse she has concluded that within the institutional Church there has been no change of heart, only a change of strategy”. Listening to bishops trying to cover and defend their positions and to the Taoiseach in refusing to condemn the contempt with which the Vatican treated the commission, one is struck by Marie Collins’ words. There may not have been a change of heart. I very much hope there has and that our State structures have changed from the culture of turning a blind eye and of blind obedience and loyalty to a church that was and is often rigid and unforgiving to those who transgressed its doctrines such as persons who used contraception, gay people and women who had abortions, yet took a very different approach to its own members who for so long were guilty of these most heinous crimes against children.

**Senator Fiona O'Malley:** I welcome the Minister of State. First, I pay tribute to the victims who have had the courage to come forward and had to endure not only the abuse in the first instance but the subsequent denial and cover-up. As Senator Norris said, the other people whom it is important to remember are members of the church who remain faithful to the greater good of the church rather than the institution as it is. I think particularly of my own



[Senator Fiona O'Malley.]

grandmother who had, as Senator Bacik described it, something of a blind faith believing priests could do no wrong. I am sure she was typical of many. Were she alive today she would be horrified at how the church has conducted itself, particularly in respect of the most vulnerable.

The report makes for depressing and disturbing reading. I pay tribute to the commission for its extremely thorough work, especially on issues such as canon law. This is the third report to be published on the sexual abuse of children. The one thing that struck me on reading this report was *plus ça change, plus c'est la même chose*. We read the same thing in the Ferns report many years ago. I am depressed somewhat by the responses, particularly the response of the church. I agree with what Senator Bacik said about the contempt shown by the papal nuncio, the Vatican and the Pope to this State inquiry. The papal nuncio was a bit touchy about the diplomatic niceties and whether the appropriate channels were used, but the bigger issue was the contempt he and the Vatican have shown to a State inquiry.

I have always found the existence of the Vatican State to be something of an aberration. Senator Norris made reference to this when he asked whether it was a religion or a state. The conduct of the papal nuncio on this issue is disturbing, as more cover up is involved. The hideous sex crimes committed against vulnerable children were one vile thing, but what is truly heinous is the nature of the cover up on the part of the Catholic church. The papal nuncio has retreated into diplomatic cover, and that is deeply regrettable.

The response has also been regrettable. This morning I spoke to a friend who is a priest, and he is of exactly the same mind, which I thought was refreshing. He is an exemplary priest, and it is good to see that in the church. He works in impoverished communities, both at home and abroad. He is very aware of the shortcomings of human nature and is very compassionate, yet he looks at the church in which he believes and how it has dealt with the crimes it has discovered. He is looking for guidance from within his own church, but it is sadly lacking. The choice of phrase by some of the bishops mentioned in the report is that they will examine their conscience on what they should do. The fact that it has taken them this long to look at their conscience shows that their conscience does not tell them the difference between what is right and what is wrong, or what is appropriate. This speaks volumes of the church, but that is a matter for the church. However, what should be of our concern is the fact that so many of our educational institutions are run by religious orders.

I would hate to be classed as somebody who is here to kick the church when it is down, because we need to recognise the good work done by the church, including educating most of us in this country. However, it is time for a modern republic finally to separate the church and the State. The State was also culpable in its collusion with this cover up, but this separation between church and State must occur, particularly in educational institutions. Our Constitution provides for people to be educated in whatever faith they wish. We are not able to carry that out and the majority of our educational establishments are Catholic, and that should end. Responsibility for education should go back to the State. We should have a lay education system and overcome all these problems with educating people in a certain faith. It is time we made the majority of national schools and secondary schools lay.

Has the Catholic church got the capacity to change and do what is necessary? I speak with a level of compassion for Desmond Connell and the problems with which he found himself dealing. These are detailed on page 9 of the report. The Catholic church is conflicted. It has a loyalty to itself and its bishops require this loyalty above all else. The religious orders consider themselves to be above the law. That is where we as a State cannot trust them to observe basic civil law. Page 9 reveals how tortured the archbishop is when dealing with the issue:

It is clear that Archbishop Connell remained troubled by the requirement of secrecy. In 2002, he allowed the Gardaí access to the archdiocesan files. The decision to do that, he told the Commission, “*created the greatest crisis in my position as Archbishop*” because he considered it conflicted with his duty as a bishop, to his priests.

The archbishop went on to state how he thought he was betraying his oath. This is a man of enormous faith and we can see he wants to maintain that faith to his church, but what about when it is in conflict to the basic laws of the State?

Children are good at knowing the difference between right and wrong, because they get it drummed into them at an early age. They have great clarity in their innocence about what is right and wrong. The archbishop, a very learned man, is tormented about his duty to the law of the church or the law of the nation. We have to be clear about this and we should dwell on it, because we expect the church authorities to be equal before the law, but they do not see it that way. Their loyalty is to something else other than the State. To a certain extent, this could be described as subversive. Reading the report, I began to think that the church was behaving in a subversive manner. There was some collusion with the Garda Síochána, as extraordinary deference was entertained.

I agree with what Senator Norris said about ending the exclusion of church organisations from the equality legislation. If we are equal before the law, we need to say that. When this debate concludes, I feel we should have a minute’s silence for the memory of the people who were victims and who suffered these appalling sex crimes, which were compounded by the cover up on behalf of the church. Senator Boyle referred to the people who are no longer with us because they were so tortured that they took their own lives. We need to give those people a moment’s reflection. I ask that the House hold a minute’s silence at the conclusion of the debate so that we reflect on the courage of those people.

**Senator Maurice Cummins:** I certainly support the suggestion of Senator O’Malley in that regard. It would show some mark of respect to the people who have taken their lives as a result of the child abuse we have learned about, not alone at the hands of the priests in the Archdiocese of Dublin, and also remind us of all the other aspects of child abuse of which we have learned in other reports such as the Ferns and Ryan reports.

The shocking depravity and scale of abuse which has been revealed in the Murphy report is deeply disturbing, and all who turned a blind eye and were not prepared to stand up and be counted when children were systematically abused should hang their heads in shame and beg God’s forgiveness for their inaction. Needless to say, any bishop or priest who did not do everything in his power to help the victims of this vile abuse should step aside immediately in an effort to cleanse the church and restore some confidence for the bewildered, confused and angry congregations nationwide. Nothing less is acceptable if the church wants any chance of redeeming itself in the eyes of its own congregations, and this basic requirement must happen. As other speakers have said, there should be no considering of their positions or awaiting the response of their fellow priests or parishioners — they should go, and go now, in the interests of the church which they profess to represent.

The church from its highest office must grasp the seriousness of what has been revealed and must act decisively now. I have my doubts whether it realises the seriousness of what has been revealed in the Murphy report, based on the response, or non-response, of the papal nuncio. I am surprised the Minister for Foreign Affairs has not asked the papal nuncio to come in and explain his non-co-operation with the commission. After all, he is a diplomat. He should be requested to give some explanation of his non-action in this area.

[Senator Maurice Cummins.]

We have witnessed the Ferns report, the Ryan report and, now, the Murphy report into the Dublin Archdiocese. It is my fervent wish that each and every diocese in the country should be examined and some closure given to the victims. Others who failed to act or may have been involved in any cover-up should be exposed also. There are many bishops who would welcome a full examination of their diocese to bring some closure for the good, decent priests and bishops of the country.

The bravery of those like Andrew Madden, Marie Collins and many others who stood up to the institution which is the church is absolutely extraordinary. For all their sakes, we must ensure that not only can this never happen again but also that the State takes control of the protection of children. It should not be left to any church or institution; it is the State's job, and nothing should stop the State from doing it.

"I feel physically ill at the behaviour of my clerical colleagues" — these were the words of Fr. Brian D'Arcy, whose interview on Newstalk was reported in last weekend's *Sunday Independent*. His words echoed the feelings, thoughts and shame expressed by the vast majority of excellent priests who work, day in and day out, for their parishioners. All priests and bishops cannot be painted with the one brush. All religious congregations were painted with the one brush after the Ryan report yet only a small percentage of congregations were responsible for the savage abuse meted out to innocent children under their control. I spoke to several people from other congregations such as the Ursulines. They were not involved in any of the abuse referred to in the Ryan report but they felt they were all painted with the one brush. It is only fair to point out that all priests and bishops cannot be painted in the same way.

Fr. D'Arcy also made the point that when a priest wanted to get married to a woman, the church had no problem throwing him out of the priesthood, yet paedophiles were protected and moved from parish to parish to continue their abuse of children. The Vatican could say, as canon law actively states, that all priests who have been involved in paedophilia activity should immediately be laicised or defrocked — call it what one likes — so they can never possibly act or go out in the shadow of being holy again. This can be done, so what is preventing the Vatican from doing it? It cannot be allowed to continue, and I say this as a practising catholic, although not as good a one as I would wish.

As we speak, State agencies fail to provide children with the protection to which they are rightly entitled. It is Fianna Fáil-led Governments which have been in power for 20 of the last 22 years, and it is they which are responsible for the currently dysfunctional child care and protection system. In the year ended 31 December 2008, out of 24,668 reports of children at risk made to the HSE, only 15,364 were assessed and 9,304 reports of children at risk were neither assessed nor investigated. This is a damning indictment on the Minister of State and the Government. Since 2000, over 20 children under the care of the health boards or the HSE have died. No statutory independent review system of deaths of children in care exists, despite being called for by my party and the Ombudsman for Children.

The Murphy commission report states "the HSE does not properly record cases of child sexual clerical abuse" and that the current Child Care Act "does not sufficiently clarify the powers and duties of health authorities" with regard to child protection. The Government needs to explain what action it intends to take to address these issues raised in the report. For a start, it should give an absolute commitment to hold the required referendum in 2010 to give express constitutional recognition to the rights of the child, and to set the constitutional standard required to ensure the State, State agencies and the courts, when called upon, provide to children the protection to which they are entitled. It is this type of concrete Government action that is now required. We need action rather than words.

Let me return to the Murphy commission report and some of the points raised, which are as follows. The Archdiocese did not implement its own canon law rules and did its best to avoid any application of the law of the State, despite a number of those involved being canon and civil lawyers. Auxiliary bishops assigned priests to parishes without any reference to child sex abuse issues. The archdiocese was preoccupied with the maintenance of secrecy, the avoidance of scandal, the protection of the reputation of the church and the preservation of its assets. No more damning an indictment of the archdiocese could be delivered. The protection of children, respect and common decency in investigating complaints from heartbroken mothers and families were consigned to the scrap heap and child abusers were allowed continue their vile acts with the protection of church authorities.

It is only fair to compliment Archbishop Diarmuid Martin, who has co-operated fully with the commission and opened all the files, which is in marked contrast to the despicable role played by his predecessors. The actions of the Garda came under scrutiny in the report as well and it was distressing to learn that a number of very senior members of the force, including a commissioner in 1960, clearly regarded priests as being outside their remit. The examples of gardaí reporting complaints to the archdiocese instead of investigating them was despicable and great credit is due to the action of many junior members of the force who carried out their duties in an exemplary manner which was in keeping with the values and principles of An Garda Síochána. I am glad the current Garda Commissioner has appointed a deputy commissioner to examine all aspects of this report and I hope that report will be clear, truthful and factual as is the Murphy report.

The victims of abuse deserve this at the very least. There should be no cover-up or protection of senior members of church and State. There should be honesty and transparency. Justice must not only be done but it must be seen to be done, and if this means amending legislation on the Statute of Limitations to facilitate victims of clerical abuse making appropriate claims of compensation, then this must be done also. The ball is in the Minister's court and that of the church. I hope we will see action rather than words.

**Senator Labhrás Ó Murchú:** I would like to acknowledge the steadying influence the Minister of State, Deputy Barry Andrews, has had in turbulent times. Never has a semblance of stability been more necessary than now.

**Senator Diarmuid Wilson:** Hear, hear.

**Senator Labhrás Ó Murchú:** All of us serving in public life are used to challenges and in many debates in this Chamber, we have almost been exhilarated that we have had a challenge because we have a particular belief or vision that we like to put forward. Anybody who reads this report would have to admit that it weighs very heavily on the human spirit. One reaches a stage as a public representative where we must go very deep to find what we regard as the right words at this time. The more words uttered, the more empty they seem, which is sad. We tend to get frustrated and disillusioned, wondering how helpless we are to respond and act in a time like this.

As bad as it is for us, what must it have been like for the victims? We have nightmares from the fact that this could have even happened without people being aware of it. How must the victims have felt as they had to live it every minute of every day? Their lives were ruined and stolen from them. In addition to the vile crimes is the question of how they felt in the company of people who were privileged and had positions of trust but who could use that trust against innocent people.

[Senator Labhrás Ó Murchú.]

As the victims got older and perhaps took a deeper knowledge of the gospel, they may have asked how the people who perpetrated the crimes were the very people who were expected to say how important children were to the founder of Christianity, Christ himself. Even using those words in this debate, there seems to be a clash between State and religion. In many ways they are inextricably bound in history and if it unravels that way, let it be the case. That is not an issue that worries me at this time.

The link between church and State is very much part of our characteristic. We did not often differentiate between the two. Therefore when we speak, as a Catholic and legislator in my case, we must balance the words so as not to give offence to any of the victims. We must also be careful not to allow a scenario to develop by turning a blind eye to what happened in the past, is happening in the present and which should never happen in future. As legislators that will be our biggest challenge.

We respond first by expressing our revulsion. We will apportion blame and in many ways the report has done that. If criminal prosecution is involved, let it be the case. When all this is done we must look forward. I remember hearing credible comments from the Opposition benches on a number of occasions when we discussed the topic. They asked if we are examining, as a State, where we are with regard to children's welfare.

That is the pertinent question and it has nothing to do with politics, policies or anything of the kind. We must ask if we are allowing something to happen now that will require a further investigation in years to come. I am not just talking about sexual abuse but all kinds of abuse and deprivation visited on young people. I can think of towns in this country where streets are segregated, although not loudly. If a person comes from a particular street, one may not give him or her much recognition. As a young person it annoyed me when that was the case. I know this is the lowest rung of deprivation but it is all part of the same issue, which is the recognition of the full potential of every God-given human being.

I went to mass last Sunday in Holycross, which is a restored abbey and reflects many centuries of church history. On the way I asked myself the question of whether the size of the congregation would reflect the outrage which we, as members of the church, felt against people who had got into positions of privilege and trust. Would the size of the congregation in some way show that our faith and spirit had been stultified beyond recovery? I wondered if the congregation would in some way avail of the opportunity to express a sense of outrage and protest within the church itself.

The size of the congregation did not reflect the outrage and it almost seemed bigger than previous Sundays when I went to Holycross. In my simple way I tried to analyse that, and I felt it was a determination by the laity to take control of the issue. Without stating a cliché, we were always told that the church was the laity in many ways, although I often felt that it was only brought into vogue when it suited.

The people in that church and many churches throughout the country were prepared to state that the church as a human institution was not the ultimate, and the church as a human institution in history would have had many cases of abuse within it. There is no question about that. These cases may have been very serious but could be glossed over. People would go back to their own simple and fundamental — I use those words in the best sense — faith.

There was a young priest on the altar last Sunday. I could not stop thinking about the report and how we had all failed the victims. When I use the word "all", I mean not just priests but also the State and everybody else. When I saw the young priest approach the altar, I thought to myself he had entered the priesthood in recent times. He had no hand, act or part in this terrible, outrageous history with which we are dealing. I am sure he entered the priesthood

with the best of intentions to give service to others in keeping with the history of the church. I have often asked myself whether, in all of my dealings with the religious — be they Christian Brothers, priests or nuns — I have ever experienced anything untoward towards anybody else. I have not. I have asked others the same question and neither have they. Like me, I am sure that young priest is wondering how he has found himself in this mess.

I would not in any way minimise the outrages that form the basis of the Murphy report, but let me give an example on a different scale of how we all felt on one occasion. Let us look at the body politic and recall the scandals we have experienced in recent years. I used to ask myself whether anybody who had said they entered politics to serve the people could take money or be involved in anything underhand, particularly when they had been given the honour of being elected by the people. I have always asked myself that question. I cannot understand how anybody could do it. None of those present would do so. Therefore, we cannot understand how anybody else would do it. However, my experience is that once it happened, we were all tarred with the same brush. That is exactly what will happen in the church. Therefore, if we are to be genuine in looking after those who have suffered, we must focus on the perpetrators. While we must also focus on the structures, we must remember we should not visit another injustice on those who are blameless within the church. If we are capable of dealing with the issue in this way, we will serve the needs of all the people, including those who still hold a deep faith at this time.

**Senator Joe O'Toole:** I welcome the Minister of State, Deputy Barry Andrews. This is a troublesome issue, as any of us who spent the weekend, or part of it, reading this sickening report knows. I record my appreciation of the work Judge Yvonne Murphy has done on the matter. I know her personally and I am not surprised by her clear, direct and focused approach to the issue. The report was written in a way that made one feel angry rather than ill. It hit the right spots without being emotive. She told the story factually, like she saw it, in clear and simple language, with nothing hidden and no stone left unturned, for which we are grateful. It may sound sexist, but women can do a job like this better than men, as we are aware from previous reports such as the the report on the Lourdes Hospital inquiry.

I cannot find words to add to what has been said in terms of what one should say to the victims. I cannot deal with this. However, I found it heartening to hear what the monsignor had to say this morning on “Morning Ireland” when he was asked a direct question as to how he felt about Cardinal Connell’s so-called “mental reservations” — in other words, half saying something and saying the rest in his mind. He was asked how as a theologian one could reconcile this with one’s religion and beliefs. His answer was superb: “I have no time for it.” He dismissed it straight out and it was great to hear it.

I am not a regular churchgoer, but last Sunday I was at a christening at which the parish priest spoke on the issues dealt with in the report. I could see he was moved and upset. He was genuine in his comments and did not really know how he would be able to face his congregation. He was so disturbed that I, the agnostic, felt compelled to meet him afterwards and thank him for his comments. I felt they were measured and dealt with the issues in a way that made sense to someone like me. I thought it important that he had made his comments. He contacted me afterwards to say how appreciative he was that I had taken the trouble to thank him.

I have tried to reconcile that approach with the case of Archbishop Diarmuid Martin. On a television programme this week he said only two of his hierarchical colleagues had taken the trouble to ring him in the previous ten days. I was blown away by this. I could not believe there was such a lack of *esprit de corps*, solidarity, understanding, sympathy or sensitivity. I asked myself what kind of people they were that only two of them had taken the trouble to

[Senator Joe O'Toole.]

ring Archbishop Martin. It is not my job to be an advocate for him, but I appreciate what he is trying to do. I admire him and see what he is trying to do in an impossible situation. One feels he deserves support. More than anything since publication of the report, it stunned me that only two bishops found themselves in a position where they could ring him.

This confirms my view that I am not interested in calling for the resignation of bishops. I do not care whether they resign. However, I do care about them being replaced by another bishop. Why do I say this? I have dealt with the question of child abuse and paedophilia in many areas, once as general secretary of the Irish National Teachers Organisation, INTO, to which I will come back shortly. This was an issue we had to deal with from the 1990s onwards. I have also spent three years on the central management committee of the GAA. Were a bishop to take charge of an under-14 or under-16 team in the GAA, he would have to be vetted. At the same time, a bishop can walk into the position of patron of a school without a question being asked about his background or anything else. We cannot reconcile these two positions.

This may sound anti-Catholic or anti-religious, but I am a true republican. I believe in plurality and people having the space to act, discharge and practise their religion. I have no time for the liberalism defined by anti-Catholicism. That is not from where I come. I believe there are huge questions to be answered in this regard. People are entitled to have Catholic schools if that is what they want. However, I can no longer support the idea that the State should willy nilly fund schools under the patronage of people who have not been cleared as being appropriate persons to deal with the lives, futures and protection of children. It is simple and clear that we cannot deal with the matter in any other way.

I cannot understand why anybody would say other than there should be a full audit of every diocese in the country to see where this happened. We are looking at a sample of cases in one diocese and have uncovered all of this information. People do not seem to realise the report does not even deal with all of the cases in the archdiocese of Dublin. It only deals with a sample. Everywhere we looked at this issue, including Wexford and Cloyne, there were huge problems. There must also be problems in other places. The issue must be dealt with and there is no other way of doing so than by a full audit.

I commend the Minister of State for his words that there will be no hiding place. I commend him also for saying neither cloth nor collar will protect people. Our view, as I know his thoughtful view would be, is that we must have laws in place. There is no point in leaders of political parties or leading politicians calling for the resignation of bishops. It is not our business. Our business is to ensure that if somebody breaks the law by abusing a child, that person will be brought before the courts and made amenable to the laws of the land and answerable to whatever form redress we demand of them. Sadly, that is lacking at this time.

There is another issue. I have found myself in this situation many times in the past 20 years, whether in dealing with the way the previous Ceann Comhairle or people like Judge Flaherty were dealt with. I agree with Bishop Willie Walsh and share his views on the people we saw. However, the evidence must be provided before we can condemn anybody. I find it difficult to deal with a situation where the evidence is not used to bring them to book. That is the way it should be done. The person should be forced to answer. Archbishop Diarmuid Martin said he wants these people to answer and so do I. I do not care if they choose to answer by means of a television interview but I want them to answer to the laws of the country, to the Garda, to the investigation or to the courts.

In fairness to some of the people in the church — I am beginning to sound like an advocate of the Catholic church, I will be losing votes all over the place — as general secretary of a teachers' union I have dealt with paedophiles and with cases of paedophilia as a result of

complaints. These are the cleverest, most difficult people I have ever dealt with. Even now, I recall cases where decent people who investigated complaints and left no stone unturned were completely taken in. I remember one occasion when an official of our union told me he had initially made the wrong decision because he had been taken in by the person but subsequently saw the evidence clearly.

I recall another case I dealt with in 1990 or 1991. A teacher brought to the attention of the union his concern that a teaching or professional colleague was interfering with children. We commenced an investigation with the intention of passing on any information to the Garda and the patron body. There seemed to be evidence of a problem emerging when suddenly the man in question vanished. He was teaching in a rural school. Two years' later I found out that he had gone to America and enrolled in a seminary to become a priest. I followed his progress from afar. He was ordained a priest and he returned to Ireland. I did not have any evidence but I rang the bishop of the diocese where he was working. I explained my misgivings to the bishop but there was no complaint from a pupil on which to act. I heard no more and this was in the mid-1990s. However, on reading the report last week, it bothered me that the bishop I had contacted was one of the people mentioned in the report. I do not know where this guy is now but I have asked people to find out. I tell this story to illustrate there is no end to the lengths to which a paedophile will go to groom a child or to get into the circle of trust.

As I always say on these occasions, I could tell of the difficulties experienced for many years in obtaining Catholic church support for the Stay Safe programme in primary schools. It is an appalling situation. The INTO ended up paying for the doctor and psychologist who put the programme together because, under pressure the State withdrew funding and because of opposition from the Department of Education and Science. Apart from the support of people such as the then Minister, Deputy Mary O'Rourke, and a few others who pushed for it, the programme would never have been implemented.

In 1997, my first year in the Seanad, and many times later, I asked for the introduction of mandatory reporting in light of the Kilkenny and Mayo cases. I do not know the current situation. It should be a crime not to report when a law is broken, in my view and this should be a tenet of a democracy. There is a requirement on anyone who knows about these things to report it. This should apply to anyone dealing with children. Mandatory reporting should be insisted upon.

I have had formal meetings with the Minister of State on the question of vetting and child protection procedures to be used by sporting organisations and others. His support and his progressive ideas are beyond reproach. I know he has been subject to criticism and the point made by Senator Cummins is relevant in that the Government has been in place long enough and decisions should have been made. However, I do not question the commitment of the Minister of State in this area and I wish him well as there are hard things to be done and we must do them.

**An Cathaoirleach:** I advise Senator White there are five minutes remaining for this business.

**Senator Mary M. White:** Ms Justice Yvonne Murphy's report highlights the culture of secrecy and the covering up of sex abuse scandals in the Dublin archdiocese. Archbishops of Dublin did little or nothing to protect children from paedophile priests. The record of collusion and cover-up and dereliction of duty by church and State authorities is beyond belief. Thousands of children raped and abused by Catholic priests, many of them serial offenders, in the Dublin diocese over a period of 30 years. The allegations of abuse were completely mishandled by both church and State authorities.



[Senator Mary M. White.]

The report is severely critical of the way in which abuse complaints were dealt with and covered up by some of the most senior figures in the hierarchy in the archdiocese. The inquiry into the Dublin archdiocese also concluded that the State authorities, including the Garda Síochána, facilitated the cover-up of the actions of abusive clergy by failing to fulfil its responsibilities to ensure that the law be applied equally to all. These are not acts of omission due to lack of knowledge or even neglect; the cover-up was deliberate and proactive. The moral authority of the church has been completely eroded and questions will inevitably follow as to whether it is appropriate for the church to have control over matters such as the education of children in schools.

For the sake of fairness and justice, it is now imperative that the remit of the commission be extended to all Irish dioceses. What happened in Dublin and Ferns may well have happened elsewhere. In those few dioceses that have been investigated, serious failings and similar patterns of wrongdoing have emerged. As abuse survivor, Marie Collins, said last week, the victims in the remaining Irish dioceses — and there are many of them — also deserve justice. She called for the dioceses in which they lived to be fully investigated as to how individual dioceses handled abuse allegations. We must now complete the process begun and hear the voices of survivors of abuse in every county.

The crime of paedophilia is as serious, if not more serious, than murder. The people and the clergy who covered up should be put on trial for the torture they have inflicted on children. Those who have been sexually abused suffer traumatic and lifelong effects. Many die from suicide and many take to alcohol, have failed marriages and many never get their life in order as a result of what has happened to them.

When I was younger I used to believe that people who got jobs in the Civil Service, in Departments such as Education and Science, were very clever and highly intelligent. It is very disappointing, to say the least, that they did not have the moral courage to act when these reports were made to them. This is evident in both the Ryan report and in this recent report. As I said at the time of the publication of the Ryan report, there is a social class aspect in that judges handed down sentences to innocent young children. There is no doubt in my mind that deference was shown to departmental officials and to judges and most of all, to the Catholic church.

### **Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009: Motion.**

**Senator Marc MacSharry:** I move:

That Seanad Éireann approves the terms of the draft scheme entitled Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009, a copy of which draft scheme was laid before Seanad Éireann on 30 November 2009.

**Minister of State at the Department of Finance (Deputy Martin Mansergh):** This motion deals with a resolution to approve the draft statutory instrument entitled the Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009. The statutory instrument sets out the new bank guarantee scheme entitled the eligible liabilities guarantee, ELG, scheme. Members will recall that the enabling primary legislation was passed by the Oireachtas in June this year and that the Oireachtas would be asked to approve the terms of the guarantee in due course. I am pleased that the necessary EU state aid approval for the draft guarantee scheme was obtained on 20 November. The current guarantee, the CIFS scheme, is due to expire in September 2010. This draft scheme allows the banks to issue longer term debt in line with the EU model, which will continue to underpin financial stability.

An outline of the main elements of the revised guarantee scheme was announced by the Minister for Finance on 16 September and published on the Department's website. This is not a blanket extension of the current two-year CIFS guarantee. This new scheme will be more targeted than the CIFS scheme and will allow institutions to access unguaranteed funding. Institutions will be able to issue liabilities and take deposits with a maturity of up to five years but these liabilities must be issued, and deposits taken, within a limited time period that ends on 29 September 2010, the same end date as for the current scheme. This new guarantee will maintain the continued stability of the banking system in Ireland and enable the institutions to support lending to the economy. In recent weeks, some Irish institutions have successfully issued partially guaranteed term debt. To support this positive development, a key feature of this scheme is that it allows the institutions to access unguaranteed funding, which will help reduce their reliance on the guarantee over time, in line with improving market conditions. The revised guarantee scheme is the first step in the exit strategy from the blanket guarantee offered in September 2008.

Furthermore, institutions will be required to pay a higher fee to the State in respect of liabilities guaranteed under the ELG scheme, in line with European Central Bank pricing recommendations and EU state aid requirements. However, the stability provided by the guarantee remains important and, therefore, the guarantee will remain extensive, and the blanket guarantee for deposits will be retained up to 29 September 2010, subject to six-monthly review and approval by the European Commission. Access to longer-term funding is in line with the mainstream approach in the EU. The longer maturity limit for guaranteed debt issuance is consistent with the position under guarantee schemes that have been introduced by a number of other EU member states such as Germany, Denmark and the UK.

This ELG scheme is more targeted in approach and provides that newly issued dated subordinated debt and asset covered securities will not be guaranteed going forward. The new scheme confirms that existing liabilities, including dated subordinated debt and asset covered securities guaranteed under the CIFS scheme, will remain guaranteed under that scheme until the maturity of the debt or 29 September 2010, whichever is the earliest. This continued guarantee of existing liabilities is in accordance with the general nature of guarantees.

I would like to outline the key terms of the ELG scheme. It provides for a guarantee for institutions over certain liabilities with maturities of up to five years, which are incurred up to 29 September 2010. The guarantee is being provided at a charge to the participating institutions on specific terms and conditions in order that the Exchequer's interest is safeguarded. Eligible liabilities under the ELG scheme shall be any of the following: deposits; senior unsecured certificates of deposit; senior unsecured commercial paper; other senior unsecured bonds and notes, and other forms of senior unsecured debt specified by the Minister; term deposits with a term of up to five years will be covered by the ELG scheme, provided they are incurred between the period from the commencement date of the scheme up to and including 29 September 2010, subject to the approval of the EU Commission at six-monthly intervals; demand deposits will remain guaranteed until 29 September 2010, subject to the approval of the EU Commission at six-monthly intervals; and the first such approved six-monthly interval runs from 1 December 2009 to 1 June 2010. The €100,000 limit under the existing deposit protection scheme still applies to all deposits, including demand deposits. This scheme is not subject to review and will continue beyond 29 September 2010. Once an institution joins the ELG scheme, it will no longer have the facility to avail of the guarantee under the CIFS scheme for the new liabilities.

Systemically important and solvent credit institutions, including Irish subsidiaries of credit institutions authorised in another member state, that have been specified by the Minister as requiring financial support are eligible to join the ELG scheme. All current covered institutions

[Deputy Martin Mansergh.]

under the CIFS scheme will be eligible to join the new scheme. Covered institutions under the CIFS scheme have a 60-day window from the commencement date to apply to join the scheme, while all others can apply up to 29 September 2010. To be accepted, the institution must accept the terms of the scheme by way of an eligible liabilities guarantee scheme agreement and be certified in accordance with the rules as being a participating institution.

A quarterly fee is payable to the Exchequer in respect of the guaranteed liabilities under the ELG scheme. The fees are based on the pricing recommendations published by the ECB in respect of guarantees of this nature and are consistent with the fees applicable for similar guarantees provided by other EU states in respect of their credit institutions. The ECB pricing recommendations provides that the fee for debt and deposits with a maturity of one year or less will be 50 basis points per annum. The corresponding fee for maturities exceeding one year will be based on the median value of the banks' five-year CDS spreads for a sample period, plus 50 basis points.

The draft ELG scheme provides for the same reporting and information requirements and restrictions on commercial conduct which are set out under the CIFS scheme. Paragraph 22 of the ELG scheme provides the Minister with the power to issue such directions to an institution that are necessary to ensure that the objectives of the Act and the scheme are being met. Directions may provide for restrictions on conduct, transparency and reporting requirements applicable under paragraphs 24 to 52 of the CIFS scheme. These restrictions are important in preventing any abuse of the scheme. Institutions under the ELG scheme are required to submit any reports or information which the Minister, the regulatory authority or the scheme operator believe are necessary to monitor compliance of the institutions with the scheme. In addition to the power to issue directions, the scheme contains enforcement provisions. One such provision is that the Minister can increase the fee payable by an institution in material breach of its obligations under the scheme. The Minister plans to delegate the operation of the scheme to the NTMA. The NTMA is, in the view of the Minister, best placed to perform the operational role of scheme operator, given its market expertise.

The scheme will allow institutions to access longer term debt and, thus, underpin the continued financial stability of the banking system. It will also support banks in Ireland in meeting the credit needs of the economy, consumers and business and it will help underpin economic recovery. The scheme has been designed to move Ireland's guarantee into line with the mainstream approach in the EU, including the application of ECB recommended pricing. The guarantee allows for the issue of unguaranteed funding, thus allowing a move towards an exit strategy from the guarantee.

The consequences of not introducing the eligible liabilities guarantee scheme are important. The guarantee will allow banks accessing longer term funding, beyond September 2010. This is essential to establishing a balanced funding profile for the institutions. Not introducing the eligible liabilities guarantee scheme would postpone the restoration of normal commercial unguaranteed funding lines for the banks. It would have an impact on the steps taken to put in place a credible exit strategy for State guarantees provided to the banks. Inevitably, international markets would read uncertainty into the situation and this would undermine confidence in the sector. Having succeeded in stabilising the banking sector, deciding not to provide for longer term issuance, which is available in a host of other EU member states, would not be consistent with the maintenance of financial stability and progress towards normalisation of financial market conditions in Ireland. These are the consequences of successful opposition to this motion. I commend the scheme to the House.

**Senator Liam Twomey:** Things have changed dramatically in the 12 months since the current scheme was first proposed. With NAMA, we are told that matters are improving. Is the Minister of State premature in bringing forward this scheme when it is due to kick in at the end of September 2010? Perhaps he should leave it be until March, April or May to see how things pan out next year. The Irish taxpayer has just forked out €54 billion to the Irish banks. The banks are telling us things are improving for them and that core tier capital is increasing. There are no limits on what the Minister of State is proposing to provide under this guarantee scheme. Is this not a little premature? It is time we allowed the banks to grow up and look after themselves rather than expecting to become a proxy institution of the Irish taxpayer. This is not necessary; it is premature and the Minister of State is misreading the market completely. There would be a greater sense that the Government knows what it is doing if it let the banks work out their problems and allowed them to make the case for themselves on the international markets with their bond holders and long-term debt holders. That should be done rather than allowing the banks to come running crying to the Minister for Finance for another taxpayer guarantee. At this rate we will soon be guaranteeing everything the banks own. This is the wrong approach.

During the debate on NAMA, we were told that it was all about getting credit flowing. Mr. Eugene Sheehy of AIB made it quite clear to the Oireachtas Joint Committee on Finance and the Public Service that this was not a priority for the banks. It is not about getting credit flowing so there is no justification for the massive bailout mantra the Government put forward. The Minister for Finance is wrong in providing a blanket guarantee so that banks can borrow from where they want. This will encourage them to act like banks in Dubai, with the Government becoming Abu Dhabi to the Irish banks. The banks must cop on, grow up and mind their business.

What is the Minister of State doing to put the boot into some of the bad behaviour by the banks? Mr. Fingleton left Irish Nationwide in such a mess that €8 billion out of €10 billion in loans will be transferred to NAMA. There was much big man talk on how the Government would get back his €1 million pension payout on behalf of the taxpayers. The Government has done nothing of the sort. Mr. Fingleton walked away with €1 million and the State has walked into an €8 billion mess that we must bail out. At the outset I could believe that the Government was naïve about the world of banking and could be hoodwinked by the leading bankers and forced to give the guarantee one year ago. There is a sense that the Government is still naïvely believing everything the banks say, which is why €54 billion of taxpayers' money is being provided.

Surely the Government has learned something since and does not need to introduce a blanket guarantee. This will have no effect on uncertainty, stabilising the market or not frightening international bond holders. This measure shows the Government to be the softest touch in the northern hemisphere when it comes to getting money for the private sector. I suggest the guarantee be parked for a few months until we examine how the banks are operating and see what happens when NAMA comes into effect. Not one loan has been taken from the banks and transferred to NAMA yet here is another scheme to throw billions in the direction of the banks. The Minister of State needs to take it easy.

**Senator Marc MacSharry:** I propose to share time with Senator Boyle.

**An Cathaoirleach:** Is that agreed? Agreed.

**Senator Marc MacSharry:** I welcome the Minister of State to the House. This is not the time or the place to get into a Second Stage debate on banking, NAMA or the budget. We have had opportunities to do this during the week. I welcome this motion, which sets out the basic

[Senator Marc MacSharry.]

terms and conditions of a guarantee. The primary legislation was passed in the summer and this is an extension to it. It is good and appropriate as part of the rehabilitation of the banking sector to clean up the banks' balance sheets and get credit flowing. I look forward to a fuller debate on banking, the problems many of us have with it and the proposals we have to improve it. I do not propose to react to Senator Twomey's contribution with regard to the Government being the softest touch. This motion is specific to the eligible liabilities guarantee. I welcome the terms and conditions of it. It has been a long week for everyone and I do not intend to delay the House any further.

**Senator Dan Boyle:** The introduction of the guarantee scheme in 2008 was immediately followed by criticisms that we would incur €400 billion of debt. We have not and we are unlikely to do so. However, the imposition of the guarantee scheme was the right thing to do and it

6 o'clock was necessary. The continuation of the guarantee scheme is a key component of policy, mainly because other countries have adopted the same approach. The existence of guarantees in other jurisdictions, following the Irish lead, means we have an obligation to continue this guarantee. The points raised by previous speakers should be acknowledged and other legislation will be brought before the House, particularly in respect of a central banking commission, to allow a more detailed debate on the continuing sense of hubris that exists in the financial institutions. This must be tackled and was most recently seen in the contributions by the banks to the meeting of the Joint Committee on Finance and the Public Service in this House. That the scheme has been approved as EU state aid, is becoming more focused and is not open-ended meets many of the concerns about it. Far from it being a potential cost to the State, we must remember that the guarantee scheme operates on the basis that the banks pay the State for its use. That, combined with the recapitalisation of the banks, NAMA and the commitment, through taxation, if NAMA does not meet its guidelines, means the Government, through existing policy, is committed to having all debts, which the banks and other financial institutions have incurred through their incompetence, returned and restored to the State and, arguably, additional money accruing from fees and interest charges the Government has imposed through the various items of legislation.

The technical nature of extending the guarantee is something this House should follow. We should use the opportunity of the more focused changes that have been brought about on its acceptance through EU state approval, and the fact that it is more in accord with schemes that now exist in other European countries, to say that this is a measure that, hopefully, will inspire confidence and work towards the redemption — that is a key word — of Irish banks and other financial institutions.

**Minister of State at the Department of Finance (Deputy Martin Mansergh):** I thank Senators for contributing to this debate and dealing with it fairly expeditiously. It is important to emphasise that the ELG scheme will be a somewhat more targeted approach than the CIFS scheme and that it is not a blanket extension of the guarantee. It will allow for greater and longer-term debt issuance under the guarantee, moving it towards the European model and consistent with EU State aid rules.

Senator Twomey asked if we are premature in doing this. I do not believe we are. In regard to Government policy and intentions, it is important to give adequate notice of that in order to allow longer-term planning. A key feature of this is that it allows the participating institutions to access unguaranteed funding and to issue unguaranteed deposits, which will help reduce their reliance on State support over time in line with improving market conditions and, as said in recent weeks, certain Irish institutions have successfully issued partially guaranteed longer-term debt and this positive trend is welcome. It represents the necessary first step in the exit strategy for the State, which I am sure we would all support, from the blanket guarantee offered

in September 2008, consistent with the maintenance of financial stability and ensuring the funding needs of the banking system in Ireland are met. As Senator Boyle pointed out, this is not being done free of charge. The institutions are required to pay a fee to the Minister in respect of all liabilities guaranteed.

Statements made by the outgoing chief executive of AIB before the Joint Committee on Finance and the Public Service committee, at which I was not present, should not be misinterpreted. The banks have to try to maintain — perhaps the right word in the current circumstances is “restore” — their reputations. As we know, the crisis was partly brought about by a great deal of imprudent lending and they have to engage in prudent lending from here on in.

There is some limit to the extent to which the State can push the banks into socially desirable but financially imprudent lending. We are unfortunately in a situation where the number of buoyant and financially sound businesses are much fewer than appeared to be the case.

**Senator Liam Twomey:** That is not what the Minister of State was saying a few months ago. A different story was being told to get the people to buy into it.

**An Cathaoirleach:** Allow the Minister of State to continue without interruption.

**Deputy Martin Mansergh:** When we have the banks on a firm footing they will be in a better position to lend, but they will also be in a better position to lend when underlying conditions in the economy improve. It is no function of this Government or any Government of which the Senator would be a part to put the boot into the banks——

**Senator Liam Twomey:** That is not what the Minister of State was saying when he was trying to get members of the Green Party to come onside.

**Deputy Martin Mansergh:** That is a totally irresponsible approach.

**Senator Liam Twomey:** When the Government was trying to get the members of the Green Party to come onside, it said there would be all sorts of social dividends. I kept hearing the phrase “social dividends”.

**An Cathaoirleach:** Allow the Minister to continue without interruption.

**Deputy Martin Mansergh:** The Senator is putting the boot into financial institutions. I am very surprised to hear a finance spokesperson of any party using a phrase like——

**Senator Liam Twomey:** I am also very surprised by the Minister of State.

**An Cathaoirleach:** No interruptions, please.

**Senator Liam Twomey:** He is misleading the House, given what he said three months ago and what he is saying now.

**An Cathaoirleach:** I ask the Senator to cease interrupting.

**Senator Liam Twomey:** They should stop using the using the cover of this credit institutions scheme to support lending to the economy when it is clearly not true.

**An Cathaoirleach:** No interruptions, please.

**Deputy Martin Mansergh:** I did not interrupt a word the Senator said.

**Senator Liam Twomey:** I know. I am sorry but very limited time has been given to discuss this motion.

**Deputy Martin Mansergh:** In regard to any link between the establishment of NAMA and the bank guarantee, these are among the suite of measures which have been introduced to stabilise the financial system and, in their totality, they will result in a reformed, reinvigorated and stable banking system, which can meet the needs of the economy.

It cannot be repeated often enough that it is not a blanket guarantee but a guarantee for specific debt issuances and deposits, including longer-term debt. This guarantee is designed to allow banks that can to issue unguaranteed debt or accept unguaranteed deposits and, thus, move towards an exit strategy.

I thank Senators for their contributions and I commend the motion to the House.

**An Cathaoirleach:** Is the motion agreed?

**Senator Liam Twomey:** No.

**An Cathaoirleach:** Question put, "That the motion be agreed to".

**Senator Liam Twomey:** Vótail.

Question put.

The Seanad divided: Tá, 25; Níl, 10.

Tá

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
de Búrca, Déirdre.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.

Keaveney, Cecilia.  
Leyden, Terry.  
MacSharry, Marc.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Brien, Francis.  
O'Donovan, Denis.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
Ormonde, Ann.  
White, Mary M.  
Wilson, Diarmuid.

Níl

Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Coughlan, Paul.  
Cummins, Maurice.

Donohoe, Paschal.  
Fitzgerald, Frances.  
Norris, David.  
Ross, Shane.  
Twomey, Liam.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Liam Twomey.

Question declared carried.

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Donie Cassidy:** Ag 10.30 maidin amárach.

**Senator Jerry Buttimer:** I wish to object to the adjournment of the House tonight. We adjourned at 7 p.m last night and we are adjourning at 6.10 p.m. this evening. That is not good

enough. The House is due to sit tomorrow. However, we could take the business ordered for tomorrow this evening. Why is the House being adjourned now?

**Senator Fiona O'Malley:** It is being adjourned because we have done our day's work.

**Senator Jerry Buttimer:** Is the House being adjourned to facilitate the dinner being hosted by Cairde Fáil?

**Senator Fiona O'Malley:** No.

**Senator Jerry Buttimer:** Is the House being adjourned to facilitate the Cairde Fáil dinner?

*(Interruptions).*

**An Cathaoirleach:** The House stands adjourned until 10.30 a.m. tomorrow. We must move to matters on the Adjournment.

**Senator Jerry Buttimer:** I am objecting to the adjournment of the House.

**An Cathaoirleach:** No, we must take matters on the Adjournment.

**Senator Jerry Buttimer:** I want to call a vote on this matter.

*(Interruptions).*

**An Cathaoirleach:** In such circumstances, I must put the question.

Question put: "That the House stand adjourned until 10.30 a.m. tomorrow."

The Seanad divided: Tá, 25; Níl, 10.

Tá

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
de Búrca, Déirdre.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.

Keaveney, Cecilia.  
Leyden, Terry.  
MacSharry, Marc.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Brien, Francis.  
O'Donovan, Denis.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
Ormonde, Ann.  
White, Mary M.  
Wilson, Diarmuid.

Níl

Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Coghlan, Paul.  
Cummins, Maurice.

Donohoe, Paschal.  
Fitzgerald, Frances.  
Norris, David.  
Ross, Shane.  
Twomey, Liam.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Jerry Buttimer and Maurice Cummins.

Question declared carried.



## Adjournment Matters.

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### Rail Services.

**Senator Cecilia Keaveney:** I welcome the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Dara Calleary. As the response to this matter will come from the Department of Transport, I would like to have had interaction with the Minister responsible on the basis that he made the promise to raise this issue, although I mean no disrespect to the Minister of State. I have raised this issue a number of times, including with Translink and Iarnród Éireann, from whom I got no satisfaction whatsoever. I raised it at the Joint Committee on the Implementation of the Good Friday Agreement and with the Ministers for Transport and Foreign Affairs.

The Enterprise train service is co-funded. The Translink website states that the flagship Enterprise service is jointly operated by Northern Ireland Railways and Iarnród Éireann and provides eight journeys in each direction Monday to Saturday and five journeys in each direction on Sundays. This was co-funded by both Governments and the European Union. It is a very important train service for us and a very good one. I might have put the kiss of death on it the last time I raised the issue because, subsequent to raising my concern, the Malahide viaduct collapsed and it was out of action for some time.

My problem is that if I go to the train station in Dublin, I will be charged €38 for a single ticket but if I go to the train station in Belfast, I will get a return ticket for £20 sterling. If this is a co-run, co-sponsored joint venture and a flagship project, as the Translink website states, we should not exploit the exchange rate and have differences in the price of this product.

Apart from anything else, there is the basic problem that no consumer information is given. Nowhere is it stated that people are being exploited. If I buy a cup of coffee on the train, it is £1.60 sterling or €2.40. Nowhere is there a sign stating what it will cost in the both currencies. I recently heard about a man who bought two cups of coffee and a muffin. He had £3.20 sterling and €10. He asked how much it would cost and was told it would cost £4.20 sterling. He offered the guy £3.20 sterling and told him to take the other pound from the €10 but was told he could either pay in sterling or in euro. He was told it would be €5.90 versus £4.20 sterling.

Today the euro-sterling exchange rate is 90.9 cent to £1 sterling. It has been in or around 88 cent to 94 cent to £1 sterling for the past number of months. It is quite unsatisfactory. People will say these are independent networks and they do not have a co-ordinated system.

I refer to a recent document on Translink. It stated that over the past year passenger transport in Northern Ireland has remained a real success story, that Translink's integrated bus and rail network now carries over 80 million customers per year, that customer satisfaction continues at an all time high and that through its Metro, Northern Ireland Railways, Goldline and Ulster Bus services, Translink has a focus on providing integrated travel solutions that are attractive, sustainable and good value. It further stated that the latest independent performance research for public transport released last month shows that Translink customers continue to rate bus and train services at an all time high, that on-time targets were exceeded throughout all services, that the introduction of more multi-journey and integrated tickets, such as PLUSBUS, continue to offer customers better value for money and more choice and that the challenge now is to keep investing in public transport and deliver services as efficiently as possible in order to be best value for the Northern Ireland taxpayer and encourage even more people to leave the car at home.

I ask that people are informed if they are to be ripped off. If the company will not do so, I intend to start a campaign even if I have to stand and hand out leaflets. It is totally unacceptable that one network, Translink, is winning awards for its integrated service and the way it treats its customer. Staff in Belfast have said that it is a train station and not a *bureau de change* when customers have offered euro. They stated they were using an exchange rate of 69 cent to £1 sterling. I raise this in the House as a last resort, not as a first one.

**Minister of State at the Department of Enterprise, Trade and Employment (Deputy Dara Calleary):** The Minister for Transport could not be here this evening as there are a number of Cabinet meetings taking place today. He asked me to respond on his behalf and to update the House on the most recent discussions relating to the Dublin-Belfast rail link which happened on 4 November at the North-South Ministerial Council.

The council was briefed on the collapse of the Malahide viaduct, to which Senator Keaveney referred, its impact on services and on progress on reconstruction work which has since been completed. That has resulted in the restoration of services.

Irish Rail and Northern Ireland Railways are jointly working to regain market share. The council also asked both rail companies to explore options to improve the reliability of the existing trains in the short term. This is distinct from plans to expand the fleet size to allow hourly departures in the medium term or to potentially purchase a new fleet of high speed trains in the long term to allow a 90-minute journey time.

The current service requires 28 coaches plus six locomotives to sustain operations. Discussions have taken place about the best option available in terms of reconfiguring this fleet to give a significant improvement in reliability and the North-South Ministerial Council has asked that the financial implications of the proposals to improve the reliability of the trains on the line be reviewed with a view to putting in place a reconfigured fleet as soon as possible.

In regard to pricing structure issues, to which Senator Keaveney referred, the position is that the Enterprise service is jointly run by Iarnród Éireann and Northern Ireland Railways. Each company is in control of its own pricing policy. Iarnród Éireann's fares reflect the cost of providing the services from Dublin and all costs are calculated in euro. Due to fluctuating exchange rates between euro and sterling as well as the differences in costs between the two jurisdictions, it is inevitable that there will be variations in the relative levels of Iarnród Éireann and Northern Ireland Railways fares.

Against this background, the council was advised that it would not be appropriate to adjust fares to ensure complete harmonisation between sterling and the euro in the near future. There have been extreme fluctuations between the currencies over the past six months — a 12% difference between highs and lows — and there would be resource implications for constantly monitoring and changing prices to take account of these fluctuations. However, it is considered important that fares are stabilised at current levels to ensure that the focus remains on attracting passengers back to the service in the short term. The council was advised that harmonisation should be considered over a number of years.

In regard to the issue of information on pricing and exchange rates, I suggest that could be raised with National Consumer Agency with a view to it assisting the Senator.

**Senator Cecilia Keaveney:** I thank the Minister of State for his response. If it is acceptable to the Administrations, North and South, that people are exploited by 20%, I will go to the National Consumer Agency. I thank the Minister of State for his advice. One talks about a 12% variation but there is 31% differential at present.

### Flood Relief.

**Senator Jerry Buttimer:** I thank the Cathaoirleach for allowing me to raise this Adjournment matter and commend the Minister of State at the Department of Finance on his commitment to those who have been affected by recent flooding.

I wish to speak about the years of under investment by the Government in Cork's quay walls. These walls, which date back to the 18th century, are in a precarious state and cannot be expected to last much longer without repairs. Every year during Cork City Council's estimates process, Councillor Jim Corr raises the issue of funding to strengthen the quay walls.

The recent flooding in Cork resulted in the demolition of the quay walls at Grenville Place and the Mardyke. Cork City Council emergency crews and the Army have buttressed the walls with 3,000 tonnes of rubble and stone but, as Mr. Don Moore of the Irish Academy of Engineers has noted, it would be prudent to invest in the infrastructure of Cork's bridges and quay walls. The council lacks the resources to complete and strengthen the quay walls and needs capital funding from the Department of Finance or the Department of the Environment, Heritage and Local Government for this project. For the past eight years, the council has requested funding as part of its submission on its annual roads programme but has repeatedly been refused. The walls at Lancaster Quay, Mercy University Hospital, the Mardyke, Western Road and French's Quay require enhancement and protection.

The river and its quays are pivotal to Cork's road arteries. Further flooding calamities could cause major traffic disruption in addition to their potential for loss of life and property. When the council widened the road in front of City Hall, it spent its own money to improve Lapp's Quay. This is only a small part of the jigsaw but every planning permission granted for developments adjoining the quays, such as the Clarion Hotel, includes conditions on infrastructure improvements.

We need to invest in the quay walls and put in place a strategy to protect and enhance them. As part of a briefing given to Oireachtas Members last Monday, the city manager stated that he was engaging in examination of the city's bridges and walls. I hope the Minister of State can give me a commitment on the capital funding the council needs.

**Minister of State at the Department of Finance (Deputy Martin Mansergh):** I thank Senator Buttimer for giving me the opportunity to discuss the serious flooding that occurred in Cork in recent weeks and the damage to the quay walls which resulted. I share his view of the importance of the matter.

The unprecedented flooding in recent few weeks has severely impacted on Cork city. While the prolonged heavy rain in the Cork area was a major factor in the flooding, breaches in the quay wall also contributed to its scale and severity. Many people and businesses have been badly affected by having to go without piped water, being evacuated from homes or having had to close operations. I extend my sympathies to all who have been disrupted by the flooding.

In recognition of the serious detrimental effects of the flooding on households throughout the country, the Government has introduced a humanitarian assistance fund. This fund, which has been provided with an initial €10 million, is being administered by the Department of Social and Family Affairs through local community welfare officers. The aim of the fund is to provide financial assistance to households which are not in position to meet costs for essential needs in the period immediately following the flooding. More details of the scheme can be obtained from the Department or local community welfare officers. Application forms are also available at [www.welfare.ie](http://www.welfare.ie).

I acknowledge the sterling efforts of the emergency response teams in Cork in responding to the flooding crisis. Without their intervention, the damage to social and economic infrastructure would have been even greater than has been the case.

While the flood waters in Cork are receding and some degree of normality may be returning to city life, now is the time to identify what needs to be done in the short, medium and long terms to defend the city against a repeat of the experience of recent weeks. The Lee catchment flood risk assessment and management, CFRAM, study was commissioned in 2006 as the pilot study for the national FRAM programme and is now nearing completion. The objective of the Lee CFRAM study is to identify and map existing and potential future flood risk areas in the Lee catchment through detailed hydrological and hydraulic modelling and flood mapping. This flood risk assessment also accounts for the likely impacts of land use change, urban development and climate change on flood risk. Once the flood risk has been quantified and mapped throughout the catchment with particular focus on developed areas and areas under potential development pressure a catchment flood risk management plan will be developed. This plan will include a prioritised set of actions, measures and works to manage the flood risk in the catchment. Work on finalising the Lee catchment flood risk management plan is still under way and is expected to be completed in early 2010. If the recent flooding had not occurred it would probably have been launched this month but account must now be taken of what has happened.

As part of the study and to facilitate future monitoring and maintenance programmes of flood defence structures in the Cork city and harbour area, a preliminary defence asset condition survey was undertaken for many of the existing structures around Cork city, including in particular the quay walls. Many of these defences have been identified as being in a fair to poor condition and as they were not constructed with the role of flood defence in mind they may not be considered appropriate as long-term flood defences. I understand some of the quay walls are 250 years old.

The next steps of the Lee CFRAM study are to review the risk assessment and proposed options in light of recent flood events and then complete the flood risk management plan for consultation. Initial reviews suggest that the level of fluvial flooding experienced on the morning of 20 November appears to be relatively consistent with the modelled level of fluvial risk from the Lee CFRAM study. Once this review is complete, the flood risk management plan and associated strategic environmental assessment will be published along with the flood maps for formal public consultation early in the new year. Once all relevant comments from this consultation have been addressed in the catchment flood risk management plan the study will be complete and the recommendations will be put forward for implementation on a phased basis.

While the Lee CFRAM report will provide the blueprint for a comprehensive and integrated strategy for managing flood risk in the Cork area, it will invariably take time and resources before it can be implemented in full. In the meantime, and in recognition of the relatively poor state of defence capacity of the quay walls, the OPW will enter into consultations with the city council with a view to devising an immediate plan to repair, improve and enhance the existing walls. While it will be a matter for the council to commission any necessary works on the walls, the question of funding will be addressed by the OPW. I hope the works will commence at the earliest opportunity.

The Office of Public Works will continue to work in partnership with Cork city and county councils to address the problem of the quay walls. Once again, I express my sympathy to those affected by the flooding and assure them of the Government's support for the efforts under way to address this problem and future flood risk problems in the Cork area. While there is a

[Deputy Martin Mansergh.]

long-term process under way of studies, assessment and comprehensive recommendations for the entire River Lee catchment area, albeit with a particular focus on Cork city, more immediate action is required on the quay walls. We will do our best to assist Cork City Council technically, materially and, perhaps, even financially to get the work under way.

**Senator Jerry Buttimer:** I hope the Minister of State's sentiments will bear fruit and that, after years of waiting, we will see the quay walls enhanced through the provision of Government investment. I thank him for being here, as it is good to have the line Minister of State present to respond to the matter.

The Seanad adjourned at 6.45 p.m. until 10.30 a.m. on Friday, 4 December 2009.