



# SEANAD ÉIREANN

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*Dé Máirt, 23 Samhain 2010.*  
*Tuesday, 23 November 2010.*

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Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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*Paidir.*

*Prayer.*

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## **Business of Seanad**

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

The need for the Minister for the Environment, Heritage and Local Government to restrict the issuing of section 42 licenses for female deer from May to August to enable calves to become independent.

I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

## **Order of Business**

**Senator Donie Cassidy:** The Order of Business is No. 1, the Prevention of Corruption (Amendment) Bill 2008 — Second Stage, which shall be taken at the conclusion of the Order of Business, with spokespersons having 12 minutes to speak, other Senators eight minutes and on which Senators may share time by agreement of the House.

**Senator Frances Fitzgerald:** This is a very difficult time for this country on every level — political, fiscal and international. More than 6,000 articles, probably an under-estimate, have been written about the country and the situation we are in, and the relationship between what happens here and what will happen to the euro. This is an extraordinarily serious time. We finally heard the truth on Sunday, that the IMF, EU and ECB would provide the sort of funding the country unfortunately needs as a result of extraordinarily reckless decision making in Government in recent years.

This has been a very traumatic week for the Irish electorate and people are very concerned about the safety of the currency, about their savings and deposits and about where we are going. That is understandable. People are asking many questions and there is a responsibility on the political establishment to provide the best leadership we can at this point. We must answer the question of what is in the country's best interests, what it is to stand by the republic now. What do we do? What is in the best interest of the country?

The Green Party said that people felt misled and betrayed by the Government. It is unprecedented for a Minister to say that and not to resign. The Green Party is to continue, claiming that it creates certainty, but it created the most extraordinary political uncertainty we have

[Senator Frances Fitzgerald.]

seen in many months. There is extraordinary political uncertainty and instability as a result of the Green Party's actions, quite the opposite of what Green Party Members said they intended. We can see that in the markets, across the eurozone, the articles being written and all the responses.

We are in a most difficult position. Fine Gael would like to see a general election. To ask the new Government to implement a budget and a four-year strategy brought in by this discredited Government is a big ask. The budget should be introduced early and we should change the way we do business here. We should implement the recommendations on reform of the budgetary process about which Fine Gael has spoken and we should be given much more detail about the memorandum of understanding that will be agreed between the IMF and the Government. It cannot just be talk; we need information which must be available to everyone. We need to change the way we do business when it comes to the budget. We cannot just do what we have always done. Fine Gael will stand by the Republic and do the right thing, but what the public want is a change of Government.

**Senators:** Hear, hear.

**Senator Joe O'Toole:** I am heartened to hear the words of Senator Fitzgerald. At a time of economic, civic and political turmoil and instability, we are standing on the edge of a financial abyss. I agree with the Taoiseach's point of view that we need to pass a budget, publish a four-year plan and get through the wedge of financial activity that must be engaged in in the next two months. It is a lot to ask of Fine Gael and the Labour Party, but let us recognise that our future is in their hands and they could bring down the Government should they wish to do so. What Senator Fitzgerald said is correct: in the interests of the country, we need to move forward with the budgetary process. The budget should go through. In this regard, the Taoiseach has a responsibility not just to lift the telephone and contact the leaders of the Opposition parties but also to open the books in a completely open and trusting manner and allow the other parties to see what is happening and engage with the process in order that at least there will be no surprises on budget day. Once the budget has been passed and the four-year plan published, we will at least be moving forward.

Having done a deal last week with the IMF and the European authorities, we need to make it work. Our immediate economic future is tied to that agreement and I do not want to see it corrupted or perverted by a delay in passing the budget. I support the proposal of Fine Gael that the budget be introduced early, if that can be done — the sooner the better. We must recognise the challenge to Fine Gael and the Labour Party. The Government should appreciate and acknowledge the fact that if the budget is passed, it will be thanks to the Opposition parties. I ask that Members on the Opposition side do not allow their judgment to be impaired by the attraction of the prospect of succeeding to high office very soon. We have only a month or two at most to wait. We should get through the next couple of weeks and then get on with things. I am worried about the consequences for the economic future of the country were we to delay or defeat the budget at this time.

**Senator Alex White:** We have a caretaker Government, a significant portion of which has essentially handed in its notice and is operating on the basis that the Dáil and Seanad will be dissolved early in the new year, although how early is not clear. We know the Finance Bill was enacted on 3 April this year. Does the Leader or the Deputy Leader have any view on what was meant by the reference to financial measures? It could take us until April to deal with all of the financial measures.

On the comments made by Senator O'Toole, it is a matter for the Government to introduce and pass the budget. The Constitution is clear on the issue. In circumstances in which we have only a caretaker Government it is not reasonable or appropriate to suggest the Opposition parties should act as some kind of surrogate Government when it comes to the single most important job of a Government, which is to introduce a budget.

There is much talk about whether an election would constitute a distraction. I take offence at the notion that consulting the people would be inappropriate. How could consulting them at this grave time be a distraction? I believe in parliamentary democracy in which people are given a mandate to make decisions. They do not consult because the system does not allow them to consult at every hand's turn for everything done in Parliament; it is necessary to repose trust in parliamentarians. However, at a time as grave as this for all the reasons my colleagues mentioned, was it ever more necessary, appropriate and desirable that the people be consulted on what should be done?

I constantly say the Government does not have a mandate to do what it is doing, but the Opposition does not have a mandate anymore than the Government does to introduce proposed budgetary measures. Senator O'Toole says the budget should be put through, but it is not an undifferentiated thing as if we just had a quick vote on it. It will include measures that will affect ordinary citizens, including cuts in welfare and other changes. It is not just a question of getting over the line; it will include a host of measures that will need to be considered and which will affect ordinary citizens. In a sense, they are the ones who should be in the driving seat, not on every individual measure, but at a time as grave as this, what is the problem? I know people are concerned about delay and I do not underestimate the gravity of the international situation and the implications of a delay, as others mentioned. I do not believe a delay would be particularly desirable, but when everything is balanced and knowing that there will be difficulties for whatever Government is in place in coming weeks and, by extension, the country, it is vital that the people who elect Members to the other House which needs to make a decision on the budget, be consulted at this time.

**Senator Dan Boyle:** When we talk about international concerns about events happening in this country, both economically and politically, we should consider the wider aspect of what is being said and by whom it is being said. An article yesterday in *Frankfurter Allgemeine* pointed out that German banks had been colluding in the casino that had been the Irish banking system for a number of years and that they too bore a responsibility for the losses incurred. The maelstrom of economic uncertainty is as much an international and particularly a European problem as it is an Irish one. As we face up to the difficulties of the decisions that need to be made, there is also a need for the entire political system, not only the Government but also Opposition parties and those who aspire to being in government, to face up to challenges posed by forces outside the country which would undermine our economic future. This is not just about political mistakes, it is also about wider issues and we cannot be informed of decisions not in our best economic interest.

My party has taken action after long consideration. We consider it a renegotiation of the programme for Government in terms of what we have agreed, but we have now put a time limit upon it. This is a Government with a finite existence based on passing the most important elements left in its life — the finance Bill, a four-year programme and negotiations with bodies such as the IMF, the European Commission and the European Central Bank. However, we know there is also a responsibility for all those involved in the political system to engage in the process, as has been done in other countries. I cite Portugal as a particular example. How the Government finishes its term of office and how a subsequent Government will commence a new term of office will be determined by the events of the next few months. I ask all Members

[Senator Dan Boyle.]

of this and the other House to concentrate on this task because the immediate economic future of the country is at stake.

**Senator Paul Coghlan:** We are at a crossroads in our history and people are naturally concerned about our currency and the banks. I say to Senator Boyle that, perhaps, contrary to the intention, his party's action spooked the international markets.

**Senator Dan Boyle:** That is not a fact.

**Senator Paul Coghlan:** That was the net result. We cannot live and trade without a functioning banking system. What happened yesterday increased the urgency of getting agreement on the package, the loan facility the country so desperately needs. I hope much of the €80 billion or €90 billion will be seen as a standby facility that we will not need to draw down. However, because of what the Green Party did yesterday, perhaps quite an amount of it might have to be drawn down because the health of the eurozone's banking system has now been put at risk. That is the truth. Look at what is happening. Having a mandate is now important. As the leader of Fine Gael will probably be the next Taoiseach——

**Senator Alex White:** He is not there yet.

**Senator Paul Coghlan:** ——the Opposition parties must be consulted on that package. They must be involved in the talks with the European Commission, the ECB and the IMF because, please God, they will shortly have a mandate to govern sensibly for the people in the next four or five years. Nevertheless, yesterday was a sad day.

**Senator John Hanafin:** When Mr. Pat Cox addressed this Chamber, he spoke about the light that was the European Union and said part of that light was the European currency. The actions of one of the Government parties in the last couple of days has put the euro in a destabilising position. It is the function of the Government to provide stability. Unfortunately, the coalition partner, the Green Party, has reneged on its responsibility. It is easier for me to say this because, thankfully, I am from a family which has no Civil War baggage, but I hope Fine Gael will act responsibly, as it did when we underpinned the banks two years ago.

**Senator Alex White:** Disaster.

**Senator John Hanafin:** We did it not to save the banks but to save the economy. If we had not saved the banks at the time, bank doors could have closed, ATMs would have stopped working, salaries would not have been paid and the economy would have been seriously damaged. We collectively took decisions at the time. I have no doubt the public will shortly have its say. I hope the Opposition will rise to the challenge and support the budget that will be introduced this day two weeks.

**Senator David Norris:** Mr. Rehn has clearly indicated that the agreement is contingent on certainty flowing from the passing of the budget. For that reason it is very important that it is passed. That will provide us with certain opportunities, for example, to fling off some of the parasites of the political body in the Lower House. I refer to people who pose as Independents but who are, in fact, very happy to sell the interests of their country for small parochial advantage. We would be better off without them.

Senator Boyle referred to the interest in our difficulties of some of the international banks. A bank which I indicted in this House in a matter raised on the Adjournment which was taken up subsequently by the *Allgemeine Zeitung* is on the list of senior bondholders and has been

using three of its subsidiaries, including an Austrian bank which stands indicted of moneylaundering for the mafia, to hoover up the money of the Irish taxpayer. It is very important that we review the situation. I placed a number of original suggestions before the House which were all ignored. I will now place before it a second-hand one, although it might also be ignored. I was impressed by what Mr. David McWilliams wrote in the Sunday newspapers in which he suggested it was not too late to convert the senior bondholders into shareholders of the banks and, therefore, save some money for the taxpayer. I hope this might happen.

I also hope there will be reasonably temperate language from politicians and commentators who seem to want to exacerbate the situation on the airwaves and in the newspapers. I listened with interest this morning to a number of Government supporters being interviewed on radio. One of them said the Taoiseach and his Government had led us in this very difficult situation. The proposition was wrong — the Taoiseach and his Government have led us into this situation. However, it is not an opportunity for all of us to score partisan political points. We have to recognise the decisions in what he thought at the time were the best interest. There is no doubt, however, that there is responsibility there.

I am sure it was well intentioned but another person said that this was a time when we all as politicians should put the interests of the country before the interests of the party. Surely, for God's sake, that is what we should do all the time. That is what I have done for the past 25 years in this House. It is essential that as a matter of course and routine we put the interests of the country above the interests of the party and learn we are here to serve the people. The people never needed it more.

**An Cathaoirleach:** I thank the Senator. I call on Senator O'Malley.

**Senator David Norris:** They have never needed more than they do now the reassurance of decency, integrity and standards in public life.

**Senator Fiona O'Malley:** I agree with Senator Fitzgerald that the conduct of the Green Party yesterday not to support the Government has only destabilised a very fragile situation. Whatever about looking after their party members' interests, the two Green Party Ministers hold two constitutional offices and have a duty to uphold some level of loyalty and integrity to their Government colleagues, in particular the Taoiseach. As the markets have shown, the Green Party's conduct has destabilised the situation for the country rather than having any other effect, and it is deeply regrettable.

Regarding the budget and the general election we will be having, of course people need to have their say on what will happen next and they will have that opportunity. It is very important, however, that all Members of the Oireachtas agree the four-year plan.

We also need to be careful about people's expectations. The people will have their opportunity to cast judgment on all politicians and their conduct. We do not need people's expectations to be whipped up. We are entering into a new period in politics. The last thing we need to do is to mislead people into thinking things can be otherwise. That is why most parties are agreed on the necessity to pass the four-year plan and a strategy for the International Monetary Fund, IMF. A commentator said last night the people deserve a choice. They have a choice between those who believe in the IMF, the four-year plan and the targets as highlighted and those who do not — the Labour Party and Sinn Féin.

3 o'clock

**An Cathaoirleach:** The Senator's time is up.

**Senator Alex White:** That is false.

**Senator Fiona O'Malley:** After the next general election, we need a Government that will be economically coherent. It will be incoherent, however, if we get Fine Gael and Labour in power. That is why I want to see Civil War politics finally put to bed and Fianna Fáil and Fine Gael to form the new Government.

**Senator Jerry Buttimer:** With a Fine Gael majority.

**Senator Paudie Coffey:** Since last Sunday's announcement and confirmation of the bailout, I have felt a great sense of shame for our country. I also felt physically sick at where our country has ended up. This generation cannot be proud of its legacy or the mess we have left for the next generation to clean up. The Government should apologise to the people for where we are at.

We are at a serious juncture in our history regarding the EU-IMF bailout. That is following a week in which we heard successive Ministers lie to the people. They were in denial first and then they lied. They have betrayed this country by their actions over the past week. Their trust and credibility are in question and, by extension, the Government is now in question. People are afraid for the country's and their children's future.

There is great instability. I do not believe the Green Party intended to destabilise the economy. The net effect of its actions yesterday, however, achieved that internationally.

The bailout is necessary and parties that say otherwise are living in cloud cuckoo land. It may be difficult for us to understand, believe and accept that the bailout is necessary, but we must acknowledge that our banks could not function without it.

The old way of politics is no longer working. It has failed our people and our country. We are now staring into the abyss. Politicians of all parties must take their responsibilities seriously. It will be a challenge to the political system, but I ask the Leader's party to use its influence to bring the budget forward to an earlier date. Let us have full transparency about the budget and debate it as mature parliamentarians.

The Opposition will more than likely be expected to implement the four-year plan referred to by previous speakers. If we are to do so, it is essential that the Opposition be a party to the memorandum of agreement on the negotiations with the EU and the IMF. We are at the edge of the precipice, so we need new politics and new leadership.

**Senator Ivor Callely:** Members of the House sometimes become too embroiled in the politics of issues which are outside the remit of the House and can thereby lose sight of the real issues into which we can have a meaningful input. We may throw caution to the wind to score political points. We must ensure we always apply fairness and fair procedures. There is great talk of our nation's finances, the IMF, the ECB and billions of euro. That macro picture will be addressed by those with responsibility.

As we approach budget day, I ask the Leader to ensure fairness is applied, especially to the less well-off in our society who are in need of support. He should also ensure we remain focused on people in need. The Irish Society for the Prevention of Cruelty to Children's emergency helpline has seen a massive increase in the number of telephone calls to 720,000 so far this year. They have been focused mainly on abuse and welfare issues. At the same time, cases dealt with by the Society of St. Vincent de Paul have risen by 50%. Other groups working in this area have also experienced increases of a similar magnitude. I ask the Leader, therefore, to maintain our focus on relevant issues and to give a commitment to ensure children and groups such as the ISPCC and the SVP remain on the agenda as budget day approaches.

**Senator Dominic Hannigan:** I find it interesting to hear Independent Members on the Government benches criticising the Green Party for eventually finding a bit of backbone. We heard Senator O'Malley blaming them and we also heard from Senator Hanafin who I believe is still an Independent. He may have regained the Whip, although I am not sure. Perhaps the Leader can clarify that matter. If they are seeking someone to blame for the mess we are in, they need look no further than the Government benches.

I will not accept criticism of my party's unwillingness to agree to a four-year plan. We have said quite clearly that we will sign up to a 3% debt-to-GDP figure between now and 2014. That is on the record and everyone in this House knows that. We believe, however, that a mandate is required for that plan, which is why we want to see a general election as soon as possible.

As the final days of the 23rd Seanad draw near, I am sure the Leader is still thinking about organising business for the coming weeks until the Christmas recess. We do not know, however, how long it will be before the plug is finally pulled on this Government. None the less, it may be possible to pass some legislation without too much disagreement, such as the legislation on climate change and management companies. Those Bills are not too far from making it on to the Statue Book. Everyone would benefit from them, so there may be some room to progress those Bills. Perhaps the Leader could also find time next week for us to debate overseas aid. There is good work the House can do. I recognise we will not get around to dealing with the issue of Seanad reform which we all thought we would see in the course of this Seanad. We will not see legislation on matters such as the mayoral elections which is unfortunate because there were many months in this House when we dealt with little or no legislation. The failure to legislate is that of the Leader. Some work can be done before the House is dissolved. I ask the Leader to make that request in the coming weeks.

**Senator Geraldine Feeney:** In the past few days with other colleagues on this side of the House I was in the Isle of Man to attend the British-Irish Parliamentary Assembly. Solace was to be gained in this frightening time for the country when we were addressed by the President of the Nordic Council who was Icelandic. He spoke about the terrible time they had endured before the IMF went in and about the good times they were entering. He told us there was a good life after the IMF. We also heard this from our British counterparts who talked about the time when the IMF went into Britain in the 1970s and it did not fall apart. We were told there were calm heads and nerves of steel. What I am hearing from the Opposition this afternoon does not indicate there will be cool heads and nerves of steel. I am sorry we will not have this. I will not play party politics, although I know Members expect me to do so because I normally do.

**Senator Jerry Buttimer:** The Senator is good at it.

**Senator Geraldine Feeney:** I will not play party politics.

**Senator Alex White:** She just did.

**Senator Geraldine Feeney:** On Monday I had breakfast with a senior member of the Fine Gael Party before any of this started to fall apart.

**An Cathaoirleach:** The Senator should put questions to the Leader. We are not worried about who she had breakfast with.

**Senator Geraldine Feeney:** That senior member of the Fine Gael said to me that a date should be set for the budget and that Fine Gael would abstain on it.

**Senator Paudie Coffey:** That is rubbish.

**Senator Geraldine Feeney:** It is not. I would not come in——

**An Cathaoirleach:** We are on the Order of Business to which Senator Feeney's comments are not relevant.

**Senator Geraldine Feeney:** I would not say something in this House as clearly as that if it was not fact.

**Senator Paudie Coffey:** It is a three card trick.

**Senator Jerry Buttimer:** Senator Feeney should name the person in question.

**Senator Geraldine Feeney:** Fine Gael should not think it is blinding people because it is doing no such thing. It should be honest with the people. This is far too serious an issue for people to play party politics.

**Senator Paudie Coffey:** We will take no lectures on honesty.

**Senator Jerry Buttimer:** Yesterday the Green Party added turmoil, uncertainty and instability not just to the political system but also to the lives of the people. Senator Coghlan is correct in pointing out that the markets reacted to this. I ask the Leader to join me in calling on Green Party Ministers to do the honourable thing and resign. Otherwise, the Taoiseach should take their seals of office from them and let them walk away from government.

What does “stand by the Republic” mean? What does it mean to stand by the people? It means getting Fianna Fáil out of government. That is what the people want above all else. They want the budget to be passed; they want the uncertainty removed and a revolution in how the Government operates. However, they will not get it following the actions of the Green Party yesterday and the rhetoric today of Senator Feeney and others who play tribal, partisan politics. The reality——

**An Cathaoirleach:** Questions to the Leader, please. Senator Buttimer's comments are not relevant to the Order of Business.

**Senator Jerry Buttimer:** I know Senator Feeney is embarrassed.

**Senator Geraldine Feeney:** I am not one bit embarrassed. It is the old rhetoric from Senator Buttimer that embarrasses people.

**Senator Jerry Buttimer:** I ask the Leader to use his good offices and ask the Taoiseach to bring forward the budget, given that the four-year strategy is being published tomorrow. As Senators Fitzgerald and Coffey said, we should have the leaders of the two main Opposition parties in Dáil Éireann as parties to the memorandum of agreement. The people are tired and fed up and want change.

**Senator Geraldine Feeney:** They are tired listening to the likes of Senator Buttimer.

**Senator Jerry Buttimer:** Change is coming.

**Senator Ann Ormonde:** I am weary with the rhetoric from all sides.

**Senator Jerry Buttimer:** What about the rhetoric from Senator Ormonde's own side?

**An Cathaoirleach:** Please. No interruptions.

**Senator Ann Ormonde:** Wait now.

**Senator Jerry Buttimer:** What about Senator Ormonde's own side?

**An Cathaoirleach:** Senator Buttimer should please not interrupt.

**Senator Jerry Buttimer:** It is the Government that is causing the mess.

**An Cathaoirleach:** Senator Buttimer should not interrupt or he will be asked to leave the Chamber.

**Senator Jerry Buttimer:** On what grounds? The Government has the country ruined.

**An Cathaoirleach:** The Senator will be asked to leave for interrupting. No Members is allowed to do that.

**Senator Jerry Buttimer:** The Government has the country ruined.

**An Cathaoirleach:** Senator Buttimer should please respect the Chair and this House.

**Senator Ann Ormonde:** We are at a political crossroads. Let there be no doubt about that. There will be a redrawing of the political landscape. That is coming regardless of whether we like it. I do not know how things are going to shape up but change is coming loud and clear in terms of the future of all our parties. The public is looking for change. I am not saying we are not the brightest or that any other party is the brightest either. Let us not take solace in anything in the House today. All I can say is that I am sick to death of the kind of politics we have been playing in this Chamber. I want to be elected to discuss issues. I was never interested in political assassination. I was never interested in personality politics and I never will be.

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

**Senator Ann Ormonde:** That is the bottom line. I do not want anyone to do it to me either.

**An Cathaoirleach:** We are on the Order of Business. I invite questions to the Leader.

**Senator Ann Ormonde:** I want issues to be discussed in the House. I support Senator Hannigan who called for a debate on overseas aid. I do not know where we are going with it, but this country has been good in that regard in bad times. Perhaps we should try to keep up the momentum in Irish Aid. After that I wish to discuss issues if we can get down to whatever is left. Let us cut out the personality assassinations.

**Senator Eoghan Harris:** The great Wesleyan preacher, John Wesley, used to say when he came into a room full of different Christian denominations arguing with each other, "Come brothers, let us reason together". Senator Fitzgerald has shown us how to reason together in this Chamber today. The situation is pretty simple. We — some of us anyway, bankers and politicians — got ourselves into a mess, but to argue that if one's house goes on fire and a neighbour comes in, helps one out of bed and rescues one, one does not turn around and recriminate with that neighbour on the grounds that he loaned the money for the cigarettes in the first place, as we are hearing around Europe these days. I ask the Leader to convey to our fellow parliamentarians in Germany, Great Britain, and Sweden, our thanks for the help they have offered in our hour of need. We should stop being graceless people with no gratitude.

[Senator Eoghan Harris.]

Even during the Civil War ambulances were not fired on. We are sent here to serve the people. Authority is a service to the people. Since the ambulances and the Red Cross have come, we have spent half of our time giving out about them and turning on them, and half the time fighting each other and carrying on the Civil War rather than stopping the hostilities for a while, as Tom Johnson did. I was depressed by the contributions of the Labour Party Members today. Of course, they are technically correct. Of course, it would be ideal to have a general election but politics, like New Zealand rugby, is a total business if seen in context. The total context is there will not be a general election before Christmas. If there are further recriminations, the markets will be disrupted. We will have a terrible image internationally. We should stand shoulder to shoulder together and put up with it as best we can. There is no point in arguing on the decks of the *Titanic*. Perhaps Senator Alex White is correct and his party was right to say they should not have taken that particular route in the *Titanic* but now that the ship is going down they have different kinds of obligations, namely, to save people and do the best they can. The best we can do in this situation is to stop fighting with each other for a few weeks.

Senator Alex White will be in power soon enough, as will Senator Buttimer and others. In the meantime we desperately need to calm the international markets, do something about our image and stop fighting among ourselves. We are not sovereign people anymore. We are like county councillors. The money belongs to the county manager, the IMF, the EU and the ECB. The county manager is in charge now. What is the point in us going around pontificating and pumping around the place saying that above all we must have an election and we must have party politics? We are like children in a nursery, hurling bricks at one another while the school teacher stands at the door in despair. Please brothers and sisters, let us reason together.

**Senator Ann Ormonde:** Hear, hear.

**Senator Joe O'Reilly:** It merits repeating once more that the country is in grave difficulty and that people are genuinely anxious and afraid. Taking Senator Harris's metaphor of firing on ambulances, it is important that an Opposition party identify and echo people's concern as to why those ambulances are present. They are present because of cosy cartels and successive years of mismanagement by Fianna Fáil Governments. The country was badly run. The IMF's arrival is an extraordinarily serious matter.

**An Cathaoirleach:** I am looking for questions. Unfortunately, everyone is making a speech.

**Senator Joe O'Reilly:** It also merits repeating that the people need an immediate election. Yesterday, the Taoiseach should have put the negotiations on hold, arranged to delay the budget and called an election in the minimal constitutional period. This is what the people want. The public wants a new source of hope and people who are responsible and were at a remove from those who were running the country. They want people who were not part of the problem to address it. We need an immediate election.

Given our circumstances, there was no other way. We missed yesterday's opportunity, so we must look to bringing the negotiations and budgetary process forward and to having an immediate election to bring stability and clarity to the situation. Nothing short of that will do. It would be helpful if, before Saturday's march, senior members of the Government apologised to the people for what has occurred. Doing so would help to defuse the march.

**Senator Shane Ross:** I was struck by the attitudes of some Members of the Opposition. It is time they started behaving like a Government because they will be in government in a short period. It is time that everyone present considered the extraordinary dangers of defeating the budget. Today is not the right time to discuss blame. There will be and there has been plenty of time for that.

If the budget is defeated on 7 December, has anyone thought about the consequences? I do not know what they would be, but I suggest that it will mean no funding from the International Monetary Fund. It has been made clear that the money is contingent on the budget getting through. We are in as desperate a situation as that. Today, people who are about to take the reins of power should, at a minimum, be asking how to get a budget that is acceptable to everyone through. We should not be using the opportunity of this crisis to score points against a dead Government. There is no point in kicking it anymore. It is going out of office and that is the end of its members.

**Senator Eoghan Harris:** Hear, hear.

**Senator Shane Ross:** They will be changing sides in a few weeks. Responsibility has been transferred from that side to this side.

**Senator Eoghan Harris:** Hear, hear.

**Senator Shane Ross:** This side should be discussing how to get a budget through, not how to defeat a budget or to impose a vote of confidence. We know what the result of the election will be, so it is important we do this and not damage the national interests.

**An Cathaoirleach:** Time, please.

**Senator Shane Ross:** I plead with Opposition Members to take this stance, particularly given that Ireland is in the eye of the storm. Our nation is being looked at as the one that can stop the collapse of the entire European monetary system. We have a responsibility that goes far beyond the type of play-acting that exists in this House. I ask those on this side of the House to behave as though they are the Government, as they will be in government in a few weeks.

**Senator Marc MacSharry:** Some 18 Senators have spoken and none has yet called for a debate. That is testament to how sadly we have done our business here over the years in that we have exclusively focused on reacting to situations, on the blame game and on what was done incorrectly as opposed to what could and should be done correctly. In whatever time is left that is of use to this House, I agree with Senator Ross that we must use it to feed into the budgetary process. In that context I call for an immediate debate on the four-year plan and the preparation of the budget in order that all Members can play their part in feeding into that process.

I am a former manager of a beef export plant which had to be checked regularly by the veterinary authorities and the Department of Agriculture, Fisheries and Food. The vet would tell me if anything was being done incorrectly. There are many reasons for failure, but no excuses. Many aspects of our system, economically, financially, politically and otherwise, in recent years have failed us, but the blame game and analysis is easy copy for lazy journalism, and there will be much talk about this in the time ahead.

In whatever time is left, however, let us focus exclusively on where the €6 billion will be found in order that Ireland can, as a small but full member of the eurozone, play its part in

[Senator Marc MacSharry.]

effectively in saving it, as Senator Ross has said. There is somewhat of a calm confusion here as we sit in the eye of the storm while the focus has changed exclusively to Portugal and Spain where matters are very far from calm. The responsibility, irrespective of imminent elections or otherwise, is squarely on these Houses to send out through the Irish people and media the message that in unity there is no division in the determination to vote through this budget, take the appropriate steps and reassure our people and our colleagues throughout Europe.

It is appropriate they should extend assistance to us, the same as Prime Minister Harold Wilson in 1975, without any substantial preconditions such as those indicated in the media frenzy on issues, such as corporation tax, which were instanced in tandem with images of people queuing for water and begging on streets as we saw from IMF interventions in the past. Let us move forward in confidence and with absolute determined unity towards the only thing that can be done over the next week or two, namely, to put whatever input we can, however small, into this historically difficult budget and play our part. Let the election process begin in due course, come what may, but in the meantime let us not waste our time any longer with what has preoccupied this House daily for eight years, namely, what it says in the newspapers.

**Senator Nicky McFadden:** Senator MacSharry has been a good contributor.

**Senator Paschal Donohoe:** Senator Harris is wrong in one regard in what he said. We are still a sovereign people and, unfortunately, that has a very negative implication today. It is still within our grasp to make matters worse for ourselves than they should be. It is possible to make what is truly disastrous situation for our country a crisis for Europe. That happened yesterday.

I have spoken in this House and within my party on the need for consensus and for this side of the House to facilitate our country getting through this crisis. The actions of the Green Party yesterday have made that so much more difficult, if not impossible, to achieve. Let us be clear as to why. Senator Boyle told the country that his party's partners in Government had misled the country over recent days, and this side of the House is now being asked to trust the same people the Green Party has said it does not trust in securing the country through these stormy and difficult days. That is as deep a difficulty as the country could experience and it does not instil confidence in the people from whom Fianna Fáil is looking for support. It is not acceptable for Members to say we on this side of the House, in genuinely raising concerns about the economic future of the country, are play acting.

**Senator Paudie Coffey:** Hear, hear.

**Senator Paschal Donohoe:** That is not helpful in seeking to get where the country needs to get to.

**Senator Nicky McFadden:** Hear, hear.

**Senator Labhrás Ó Murchú:** It is evident the House is in its final days. While it is possible there may not be a Seanad in the future, we can look back on some glorious moments, including when the House held the fort and assisted in forming public opinion on issues such as human rights and the image we have presented to the world, one which has stood us well whenever we have required assistance. It is not unusual for the country to look to its allies in Europe for assistance; we have done so often in the past. A particularly glorious period was the time we adopted a bipartisan approach to the Northern Ireland conflict. All Members will agree that it was one of the blackest periods of Irish history. The bipartisan approach taken ensured we succeeded in getting through that period and reclaiming the dignity of human life. We also

showed it was possible for us to respect all traditions on the island, for which we won kudos throughout the world. People are using what happened in the peace process as an example in seeking to solve problems in other parts of the world.

We are presented with another glorious opportunity, one which requires calm nerves, reflection and leadership. The interests, concerns and suffering of the people in the current crisis are paramount. I do not believe any sane person would suggest we should not put the budget through on 7 December or that we should not present a four-year plan tomorrow or on another day. I would like us to use the remaining days of this Seanad in a constructive manner and to endeavour to be magnanimous towards the views of others. As stated by Senator Harris, for once and for all we should send the message that while we appreciate the support from outside, we will, at the end of the day, depend on own efforts in Ireland to get back to where we were. I hope we will not lose this opportunity.

**An Cathaoirleach:** There are less than three minutes remaining and eight Members are offering. I will take questions from two or three more Members.

**Senator Fidelma Healy Eames:** I have listened to the contributions of other Members and agree that there is a need for calm. The only relevant question now is: what is in the best interests of the country and its people? Yesterday's announcement by the Green Party and subsequently the Taoiseach drove people across the country crazy. Yesterday in Galway I met families, farmers and people with disabilities who expressed deep concern that they were going to lose out again in the midst of the turmoil. One of the most basic questions was whether there would be money in ATM machines at Christmas. In this regard, it is important we note what Senator Ross said. The bailout is contingent on getting the budget through.

**An Cathaoirleach:** A question to the Leader please.

**Senator Fidelma Healy Eames:** I appeal to Fianna Fáil and the Taoiseach to give us a roadmap that will work in order that this can be done easily. Is the best roadmap for this country a Government that has made so many mistakes putting a budget through for which it will not be accountable or offering an immediate general election following which a new Government — who knows who will be in it — will construct a budget and be accountable to the people, not just to get us to Christmas but to recovery in the future? The Government parties have not been accountable for so much. I appeal to the Leader and the Cabinet to do the right thing by this country and the people. Let us remember that government is a function of the people and they are screaming out for leadership now. The Government parties have done their time. Please call a general election in order that people can made their decisions.

**Senator Lisa McDonald:** It is my understanding that the Taoiseach indicated yesterday when the general election will be. What has emerged out of recent days is that we all, as politicians, abdicated our responsibilities as leaders in our community. We are all leaders and we need to lead now because, as Senator Healy Eames said, the people are crying out for leadership. We need calmness to get the budget through and then the people will have their say and a new Government will be formed. Fianna Fáil will be held to account for what has happened on our watch and the people will elect a new Government, which will more than likely be formed by Fine Gael and the Labour Party. That they could cobble together a Government in two or three days before Christmas is absolute fantasy and that would not lead to the stability our people badly need.

[Senator Lisa McDonald.]

I dropped my two children to the crèche this morning and I felt sad for all the children in the crèche because we need to give them more. Political reform is required. The system does not work. I did not hear any Member standing up over the past ten to 15 years to say everything was wrong. That debate is required and we will have our say when necessary.

I agree with Senator MacSharry that we should use the last days of this Seanad to discuss properly issues of relevance. The IMF yesterday suggested in its document that we should examine tax breaks for working women to bring women into the workplace. That would be an excellent debate to have in this House and I am calling for it.

**An Cathaoirleach:** I call on the Leader to reply and I will take the Members who missed out today first on the Order of Business tomorrow.

**Senator Donie Cassidy:** Senators Fitzgerald, O'Toole, Alex White, Boyle, Coghlan, Hanafin, Norris, O'Malley, Coffey, Callely, Feeney, Hannigan, Buttimer, Ormonde, Harris, O'Reilly, Ross, MacSharry, Donohoe, Ó Murchú, Healy Eames and McDonald called on us to play our part in the serious challenges facing our country which have come to the fore, especially over recent days. As the Taoiseach said last night, the vital national interest requires that financial stability be achieved and all public representatives in both Houses of the Oireachtas have to fully agree with that.

The four most important issues are publishing the four-year plan, which will set out the necessary framework for adjustment to be implemented by 2014; adopting the budget, which will come to the Dáil this day two weeks; taking all the necessary legislative and other measures to give effect to the terms of the budget, which are the Finance Bill, which is the most important Bill passed by the Houses each year; and concluding negotiations on a programme for support from the EU, ECB and IMF. These negotiations are taking place in the context of budgetary arrangements which will come into effect. We are in a serious situation. Senator Fitzgerald quite correctly pointed out the difficult times our country is experiencing and I welcome the co-operation that has been offered regarding anything that can be done in the interest of our people.

The political parties have to take a back seat on this occasion. The national interest has to come first because the alternative is unimaginable. The people are suffering quite a lot. Many families are suffering far more than we ever thought they would again, going back to other tough and difficult times, through unemployment and all the various pressures on people, particularly those who are giving employment and being employed. Subcontractors have almost gone to the wall because major contractors are in liquidation. All these issues are facing our people at present.

Leadership is required and it must be order of the day. I fully agree with many of the sentiments expressed by Members. The four-year plan will be published tomorrow and it is my intention to have it on the Order Paper tomorrow. I will provide for an open-ended debate in order that each Member can discuss it. There will be a time limit on contributions but there will not be an end time for the debate. It could go on quite late tomorrow night.

Senator Callely raised the issue of fairness in the budget for people in need. He referred in particular to the 720,000 calls received by Childline so far this year and the 50% increase in cases dealt with by the Society of St. Vincent de Paul. He has always been a great supporter of the underprivileged and the ISPCC and all those great organisations that have huge demands on them currently. I will pass the Senator's wishes on to the Minister for Health and Children.

Senators Hannigan and Ormonde asked for a list of the Bills that will be taken before the Christmas recess. I will provide that later in the week.

Senator Ormonde referred to overseas development aid. I passed on the comments of Senators on the issue last week to the Minister for Foreign Affairs and I fully agree with Senator Ormonde's sentiments.

Senator Feeney referred to the important visit to the Isle of Man by the British-Irish Parliamentary Assembly this week and her experience and conversations. I note the determination with which she delivered her comments to the House.

Senator MacSharry called for a debate on the four-year plan. This will take place tomorrow and I look forward to all Members participating.

Senator Ó Murchú said that the House has made an indelible impression regarding many issues, especially Northern Ireland. We have received much kudos for our stances on human rights and other issues. I have no difficulty in our coming back to the House to play our part, particularly on this issue. Tomorrow will be the start of that with the open-ended debate on the four-year plan.

Order of Business agreed to.

### **Prevention of Corruption (Amendment) Bill 2008: Second Stage**

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

**Minister for Justice and Law Reform (Deputy Dermot Ahern):** This Bill represents a significant strengthening of the law tackling corruption. It introduces a comprehensive system of protection for whistleblowers reporting corruption. It broadens the scope of the 2001 Act to ensure that the bribery of foreign officials is comprehensively addressed. In doing so it ensures compliance with the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions (1997).

It is important that our international obligations in this area are met and are seen to be met. We must protect our reputation as a country where business is done above board, and where those who seek to bribe their way to personal gain or to accept bribery face the scrutiny of the courts.

The OECD has carried out an evaluation of Ireland's compliance with the terms of the convention, and a report of its recommendations was published in 2007. In response to that report we took steps to address its recommendations, in particular to raise awareness of the foreign bribery offence. Officials from my Department, and from the Attorney General's office and the Office of the Director of Public Prosecutions, have met with OECD officials to update them on the measures in place to tackle corruption. Enactment of this Bill is a key step in this area. It is a clear demonstration of our commitment to preventing and tackling corruption.

Earlier this year I made a further commitment that, once this Bill is passed, work on the consolidation of the prevention of corruption legislation would progress. The statutory provisions in this area go back to the Public Bodies Corrupt Practice Act of 1889. Subsequent to that the issue of corruption was addressed by the Prevention of Corruption Acts of 1906 and 1916. The Ethics in Public Office Act 1995 amended some of the provisions of the Acts to reflect changes in public administration and to update the penalties under the Acts. The Prevention of Corruption (Amendment) Act 2001 enabled ratification of three international instruments, namely, the 1997 Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, the 1997 OECD

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Convention on Bribery of Foreign Public Officials in International Business Transactions, and the 1999 Council of Europe Criminal Law Convention on Corruption.

The Proceeds of Crime (Amendment) Act 2005 provided for the seizure and forfeiture of bribes. Consolidation of all this legislation will bring greater clarity and cohesion to the law in this area. The Law Reform Commission has done some extremely valuable work in this area by producing a restatement of the existing legislation which will be of great assistance in the consolidation process, and I want to thank Ms Justice Catherine McGuinness and all of her team at the commission for their ongoing work. I am sure the Members of the House will join me in doing so.

This Bill builds on the existing statutory framework. As this is an amending Bill, I believe it is useful to briefly consider the main relevant provisions of the principal Act. For our purposes today, the most relevant provisions are those setting out the relevant corruption offences in the 1906 Act as it has been amended. That Act criminalises both ends of the corrupt bargain.

Section 1 provides that an agent or any other person who (a) corruptly accepts or obtains, or (b) corruptly agrees to accept or attempts to obtain, for himself or herself, or for any other person, any gift, consideration or advantage as an inducement to, or reward for, or otherwise on account of, the agent doing any act or making any omission in relation to his or her office or position or his or her principal's affairs or business, shall be guilty of an offence.

Similarly, a person who (a) corruptly gives or agrees to give, or (b) corruptly offers, any gift or consideration to an agent or any other person, whether for the benefit of that agent, person or another person, as an inducement to, or reward for, or otherwise on account of, the agent doing any act or making any omission in relation to his or her office or position or his or her principal's affairs or business, shall be guilty of an offence.

Furthermore, a person who knowingly gives to any agent, or an agent who knowingly uses with intent to deceive his or her principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any particular way, and which to his or her knowledge is intended to mislead the principal, shall be guilty also of an offence.

The Bill before the House deals with an anomaly in the second offence I just mentioned which deals with what is called active corruption or the giving of a bribe. The Act as it stands refers to corruptly offering "any gift or consideration to an agent". The Bill will amend that offence to refer to the corrupt offering of "any gift, consideration or advantage". This will make it clear that all forms of advantage come within the terms of this offence as well as monetary gain.

Jurisdiction for these offences will be substantially extended in regard to corruption occurring outside the State. It will now extend to cover virtually all persons having a connection with Ireland, be they citizens or residents, including companies and corporate bodies. The range of foreign public officials coming within the scope of the legislation also has been extended to include persons under the direct or indirect control of a foreign government, as well as representatives of international organisations to which Ireland is not a party. The existing legislation already addresses international organisations of which Ireland is a member.

Perhaps the most significant aspect of the Bill is the protection it will now provide for whistleblowers. Employees who report suspected corruption offences in good faith will be protected from penalisation by employers. Bona fide whistleblowers will be protected from civil actions for damages, and they will also have the option of using a system of confidential whistleblowing.

Protection of whistleblowers is of particular relevance in regard to corruption. Corruption can be a very insidious thing. Unlike daylight robbery, it is not obvious. In such circumstances, the role of whistleblowers can be crucial to discovering the crime in the first instance so that the Garda can become aware of its occurrence and investigate the offence.

Corruption cannot be tackled by legislation and policing alone. As with all crime, the support and assistance of ordinary citizens is essential to the success of the Garda Síochána's efforts. I mentioned earlier the recommendations of the OECD, and one of the key issues it touched upon was that of awareness-raising. As part of the overall Government response in this area, the Department of Justice and Law Reform set up a website, *www.anticorruption.ie*. It is an information portal which aims to increase knowledge of the OECD convention and of the obligations in this regard. Although established by the Department of Justice and Law Reform, it represents a cross-departmental effort to inform individuals and companies working in an international business environment about the consequences of bribery and corruption.

In addition to ensuring greater compliance with the OECD anti-bribery convention, the provisions of the anti-corruption legislation being put before the House today will also contribute to the ratification process for the 2003 United Nations Convention Against Corruption. The UN convention was opened for signature in December 2003 and was signed at that time by Ireland following approval by the Government.

The purposes of the UN Convention are to promote and strengthen measures to combat corruption more efficiently and more effectively; to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption; and to promote integrity, accountability and proper management in public affairs and public property. The provisions before the House relating to bribery of foreign public officials and the protections in the Bill for "whistleblowers" will also satisfy some of the key requirements of the UN convention which the Government is committed to ratifying.

I will set out the main provisions of the Bill. Section 1 of the Bill contains a single definition, referring to the fact that references to "Act of 2001" in the Bill, mean the Prevention of Corruption (Amendment) Act 2001.

Section 2 amends section 1 of the Prevention of Corruption Act 1906, as amended by section 2 of the Act of 2001, in a number of ways. In particular, at subsection (2), the term "consideration or advantage" is substituted for the term "consideration". The words "or advantage" have been added, to clarify that, as well as monetary gain, all types of advantage come within the offence.

In section 2, the definition of "agent" is also expanded to ensure that the provisions of the Bill apply to people working for, or on behalf of, the public administration of any other country, including a person who may be under the direct or indirect control of another state. The term "agent" is also expanded to apply to agents of an organisation established by an international agreement to which Ireland is not a party. There is now an extremely broad definition of this term within the legislation.

A further amendment contained within this section is the insertion of a definition of the term "state", for a state other than the Irish State. The term "state" denoting a foreign jurisdiction will include a territory, whether in the state or outside it for whose external relations the state or its government is wholly or partly responsible; a subdivision of the government of the state; and a national regional or local entity of the state. The effect of this is to extend the jurisdiction and scope of the legislation. This will ensure that officials of regional or local

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authorities of other states or of their dependent territories come within the ambit of the legislation.

Section 3 amends section 7 of the 2001 Act which deals with corruption occurring outside the State. Subsection (1) will be amended to ensure that all persons, whether or not they are agents, will be addressed by the section.

This section of the Bill also deals with the issue of extra territorial jurisdiction for the offence of bribery of foreign officials. Normally Irish law is territorial in its jurisdiction, and applies only to acts done in Ireland. Where it does extend to acts done outside the State, it usually incorporates a dual criminality provision. In other words, a wrongful act done abroad must usually be considered an offence in that place as well as in Ireland before extra-territorial jurisdiction applies. There is no dual criminality provision for the offence created by this section, because within the anti-corruption legislation the intention is to ensure that an act which would constitute a corruption offence in this State is also an offence if committed outside of Ireland, which in most instances is likely to be the case in the context of bribery of foreign officials.

This new section extends substantially liability for corruption occurring outside the State. The provision will allow this State to exercise jurisdiction in circumstances where an Irish citizen, a person ordinarily resident in this State, a company registered in Ireland, any other body corporate established under the laws of the State, or any Irish official commits a corruption offence overseas. This represents a significant advance in the law. It means that the law cannot be evaded simply by asserting that any alleged act of corruption happened in a place beyond the jurisdiction of Irish law. It also makes it clear on the international stage that Ireland is fully signed-up to fight corruption wherever it occurs.

Section 4 of the Bill amends the Act of 2001 by inserting a new section 8(A) in that Act. This amendment provides for the protection of persons reporting offences under the Prevention of Corruption Acts 1889-2010, which is the proposed collective citation of the anti-corruption legislation, following enactment of this measure. The new provision provides immunity from civil suit for any person who reports, in good faith, offences under this legislation to an appropriate person. Subsections (1) and (2) provide that a person shall not be liable in damages or any other form of relief should they report, in writing or otherwise, to an appropriate person, their opinion that an offence under the Acts has been or is being committed. This is an important and broad-reaching measure. It provides protection to whistleblowers across all sectors and aims to encourage them to come forward and report corruption.

The protection applies automatically to persons making reports under this section. The protection can be displaced where it is shown that the person has knowingly made a false, misleading, frivolous or vexatious report, or has been reckless in that regard. Furnishing information in connection with the report which one knows to be false or misleading will also negate the protection. Simply put, a person who acts reasonably and honestly in reporting their opinion will be protected.

This section also contains protection for employees against penalisation or the threat of penalisation by an employer for having reported their opinion that an offence under the Acts is being or has been committed. Penalisation is very comprehensively defined as:

Any act or omission by an employer, or by a person acting on behalf of an employer, that affects an employee to his or her detriment with respect to any term or condition of his or her employment and, without prejudice to the generality of the foregoing, includes—

- (a) suspension, lay-off or dismissal,
- (b) the threat of suspension, lay-off or dismissal,
- (c) demotion or loss of opportunity for promotion,
- (d) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (e) the imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty),
- (f) unfair treatment, including selection for redundancy,
- (g) coercion, intimidation or harassment,
- (h) discrimination, disadvantage or adverse treatment,
- (i) injury, damage or loss, and
- (j) threats of reprisal.

This provision is based on similar anti-penalisation provisions in employment law.

The section also provides for a number of offences. Making a communication under subsection (1) which a person knows to be false will be an offence. While it is important to encourage genuine whistleblowers, it is also important to balance their protection with a suitable deterrent and punishment for those who would knowingly traduce another person without regard to their constitutional right to a good name. An employer who causes or permits or threatens to penalise a whistleblower for rightly exposing corruption will be guilty of an offence.

Subsection (10) makes it an offence to make a false statement wilfully under oath at a Labour Court hearing under Schedule 1, and subsection (11) makes it an offence to refuse to attend or give evidence or produce a document to the Labour Court.

A number of key terms are defined in subsection (16) including the following. An appropriate person to whom a report may be made is defined as a member of the Garda Síochána, an employer or their nominee, an Irish diplomat abroad, or a foreign law enforcement officer.

Section 5 of the Bill substitutes a new section 9 for that currently in the 2001 Act. That section enables responsibility for an offence under the relevant Acts, to be attributed to certain of its officers so that individuals, as well as the corporate entity, can be held liable for the offence in particular circumstances where committed by a corporate body. The new section makes specific reference to unincorporated bodies.

The section also extends the period during which proceedings can be brought for summary offences to 12 months from the date of commission, or six months from the coming to light of sufficient evidence, whichever is the later, but no later than two years from the date of commission.

Section 6 of the Bill relates to the protection for persons reporting offences as set out at section 4 above.

Schedule 1 provides redress for employees penalised for reporting an offence under the Acts in good faith. The procedures set out in the Schedule include complaints to a rights commissioner and there is provision for an appeal of the commissioner's decision to the Labour Court by the parties concerned. In proceedings before a rights commissioner or the Labour

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Court concerning penalisation of an employee for whistleblowing, paragraph 3, subparagraph (7) provides a rebuttable presumption that an employee acted in good faith, when whistleblowing.

The Schedule also provides that if the alleged contravention by an employer constitutes a dismissal, the employee may seek redress under the Unfair Dismissals Acts or at common law or from a rights commissioner under this Schedule but not under both.

Schedule 2 was inserted into the Bill on Committee Stage in the Dáil following consideration of OECD recommendations concerning confidentiality. The Schedule now provides for a whistleblower to approach a confidential recipient, that is, a member of the Garda Síochána or of the civilian staff of the Garda Síochána appointed by the Garda Commissioner to receive confidential communications. The provisions of the Schedule are based largely on the Garda Síochána (Confidential Reporting of Corruption or Malpractice) Regulations. It provides generally that a confidential communicator's identity is to be kept confidential. A confidential communicator is a person who communicates his or her opinion that corruption is being or has been committed to a confidential recipient as distinct from reporting to an appropriate person in the ordinary course of events.

Paragraph 3 imposes requirements on confidential communicators to disclose all records and information relevant to the alleged offence to the confidential recipient and to identify themselves to the confidential recipient. This is a common-sense provision. For a confidential communicator to be protected, he or she must be identifiable. To disclose all relevant records and information is clearly something a whistleblower would want to do, but in the case of a confidential communicator it is even more important to ensure the Garda can complete an investigation as efficiently and effectively as possible and thus reduce the need for the Garda to revert to the whistleblower.

Paragraph 4 requires a confidential recipient to transmit the confidential communication to the Garda Commissioner as soon as possible. Paragraph 5 requires the Garda Commissioner and anyone acting on his or her behalf to take all practicable steps to ensure the identity of a confidential communicator is not disclosed.

The Schedule provides generally that a confidential communicator's identity is to be kept confidential. Paragraph 6 details the limited circumstances in which a confidential communicator's identity can be disclosed and the steps to be taken before such disclosure. Paragraph 6(1) provides that the Garda Commissioner can ask a confidential recipient to disclose a communicator's identity where the Commissioner is satisfied that disclosure is necessary for the investigation of the alleged offence. The Commissioner must set out his reasons for this. Before revealing to the Commissioner the identity of a communicator, a recipient must be satisfied that the Commissioner has taken all practicable steps to investigate the offence, consider the communicator's views regarding the disclosure of his or her identity, and be satisfied that disclosure is necessary, having regard to all the circumstances.

Paragraph 6(2) permits the Commissioner to disclose the identity of a communicator to a member or civilian staff member of the Garda Síochána or the Director of Public Prosecutions where necessary for the investigation or prosecution of the alleged offence. Paragraphs 6(3) and 6(4) prevent further disclosure by a member or civilian unless authorised in writing by the Commissioner, which authorisation may only be given where necessary. Paragraph 6(5) places a restriction on any disclosure of a communicator's identity unless it is authorised by this paragraph or done with the written consent of the communicator or under a court order.

As Members can see, the Schedule provides mechanisms for a comprehensive and balanced system which protects the confidentiality of whistleblowers while allowing for investigations and prosecutions to proceed. Section 7 is a standard technical provision, providing that the Prevention of Corruption Acts 1889 to 2005 and this Bill may be read as one.

I acknowledge the considerable input from the OECD into the development of this legislation through its review of our laws and systems. Dialogue with the OECD and with our partners in the Council of Europe Group of States against Corruption, GRECO, has helped in no small way to refine and sharpen our response to corruption through the development of this Bill. The contribution to the work by the Office of the Attorney General and the Office of the Director of Public Prosecutions has been most helpful and I thank the officials of those offices.

This Bill strengthens the laws against corruption. In international circles, it puts Ireland at the forefront in terms of the protection it provides for whistleblowers. It extends our extra-territorial jurisdiction in the area of corruption to ensure our international obligations to tackle the bribery of foreign officials are being met. It paves the way for consolidation of our laws on corruption and sends out a clear message that corruption will not be tolerated by this State either here or beyond our borders. I look forward to hearing what Senators have to say in this debate.

**Senator Eugene Regan:** I welcome the legislation, which is a step forward in the fight against corruption and the protection of whistleblowers. I also welcome the commitment by the Minister to consolidate the corruption legislation in the future, although I am not sure whether the Minister will have time to see that through.

This legislation is, by and large, a result of serious criticism by the OECD of the manner in which the UN Convention against Corruption was being implemented in this country. It conducted a number of evaluations and found that some of the provisions of the legislation were inadequate. It was also critical of general awareness of the legislation and called for the introduction of provisions on whistleblowers.

The Minister stated:

I acknowledge the considerable input from the OECD into the development of this legislation through its review of our laws and systems. Dialogue with the OECD and with our partners in the Council of Europe Group of States against Corruption, GRECO, has helped in no small way to refine and sharpen our response to corruption through the development of this Bill.

I suspect this was tongue-in-cheek. The fact is this is being done to fulfil our international obligations. We are adopting this legislation to prevent further embarrassment to the State due to our being out of line in the implementation of the relevant convention.

The Minister also said that corruption could not be tackled through legislation and policing alone, and that is true. We acknowledge that the political culture of corruption became established under Fianna Fáil taoisigh from the time of Charles Haughey to the present day, which meant that corruption at all levels was not taken seriously or tackled. It permeated general society, and this has contributed to many of the problems we have at present, whether in our banking or financial sector or areas of the public sector. It is the political culture which sets the scene for maintaining standards in the various institutions and generally in society. The present and previous Fianna Fáil-led Governments have much to answer for in that regard.

**Deputy Dermot Ahern:** The Senator has a short memory.

**Senator Eugene Regan:** The Minister has indicated at various times that we adopt a sectoral approach to whistleblowing, with provisions in different Acts. The best practice worldwide is to have general legislation to protect whistleblowers which can be adopted for specific cases. Having said that, I welcome the establishment of protections in this legislation, especially for employees. What is needed, particularly with regard to bribery of foreign public officials, is greater awareness in the business community. Ireland is an open economy and has a major export sector, which means it is important that people are aware of their obligations when dealing with foreign officials and that there are serious sanctions in domestic legislation. The OECD evaluation report clearly highlighted a lack of awareness of the convention and its provisions, and the State bodies themselves did not feel they were responsible for raising awareness. Given the importance of the export sector and of conducting our business affairs worldwide in a manner that is in accordance with international law, the Government has a responsibility to ensure greater awareness of these provisions. It has the ability to do so in terms of the support given to industry and exporters. In respect of the receipt of grants etc., this legislation should be highlighted for the export sector at all times. Having said this, it is a small step in meeting international obligations and commitments we made regarding the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions to which we signed up in 2003. All we are doing is tidying the defective legislation in place. On that basis, I welcome the Bill.

**Senator Lisa McDonald:** I also welcome the Bill which strengthens the law on the bribery of foreign officials in compliance with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. It is welcome that the Minister has said we will see a consolidation of prevention of corruption legislation which, when codified, will make the law on corruption easier to understand.

The Bill provides protection for whistleblowers. For too long we have had a culture of knowing certain things go on, resulting in people going home from work feeling there is nothing they can do about it. I recently met such a person. Employees need a certain level of education to ensure they understand the nature of their responsibilities to their employers and the State. It is incumbent on the Department and the media to highlight the strengthening of the law in this area. Owing to our history and colonial past, we have inherited an attitude of viewing employers and those involved in law enforcement as not quite the enemy but as people to whom we cannot or are afraid to speak. I hope the enactment of this legislation will result in a change to that culture.

From an international perspective, increasing the protection for whistleblowers and strengthening the arm of the State in dealing with corruption will send the right signal to ensure business transacted abroad is protected and that our officials understand that when acting abroad in the name of an Irish company or the State, they are covered by the rigours of the legislation.

Senator Regan spoke about the corruption culture which cannot be denied, but I do not believe it is all on one side. Mobile phone licensing springs to mind and extensions to Deputies' houses etc. It happens across the board and taoisigh other than just Fianna Fáil taoisigh were involved.

**Senator Eugene Regan:** We are all guilty.

**Senator Lisa McDonald:** Yes, we are. As a younger Member of the Oireachtas, it is time we stopped this pettifoggery and trying to blame one side. The people do not care who is to blame; they want to see change and politicians standing up and being counted and having the courage to introduce the change required. They do not want to see the same old nonsense that has continued for years continued in what we consider will be a new government next year.

**Senator Eugene Regan:** They want accountability and justice.

**Senator Lisa McDonald:** We should rise above this.

**Deputy Dermot Ahern:** We had the Moriarty tribunal.

**Senator Lisa McDonald:** I was referring to the Moriarty tribunal——

**Deputy Dermot Ahern:** Senator Regan has a short memory.

**Senator Lisa McDonald:** ——and mobile phone licensing.

**Deputy Dermot Ahern:** Senator Regan has a selective memory.

**An Leas-Chathaoirleach:** Please allow Senator McDonald to continue without interruption.

**Senator Eugene Regan:** The only judgments Mr. Justice Moriarty made were in respect of Mr. Charles Haughey——

**Senator Lisa McDonald:** All we are doing——

**Senator Eugene Regan:** ——the Minister's favourite politician.

**Senator Lisa McDonald:** I believe a Cosgrave was brought before the courts recently.

**Deputy Dermot Ahern:** Mobile phones.

**Senator Eugene Regan:** That is the Minister's mantra.

**Senator Lisa McDonald:** All we are doing is turning people away from the noble profession of politics. I decided to get involved, despite having had no familial involvement. I have significant familial involvement in community activities, with my parents spending every waking hour training young people to play hurling. What we are doing is bringing down the body politic which needs confidence. What the Senator said was mealy-mouthed. We are talking about the prevention of corruption which extends across the board. We want to promote integrity, accountability and proper management of our public affairs and public property. The protection of whistleblowers is long overdue and I am glad to be here on the day we are introducing whistleblowers legislation which is well balanced and protects against vexatious reports.

Does the scope of the Bill include members of committees and boards? There was an example in my constituency of Wexford of a politician who blew the whistle on certain things that were going on which did not involve my party and he ended up in a Garda station being asked where he had obtained the information. Whistleblower's charter legislation would have protected him in that regard. He was only trying to serve the public in the best way he knew how.

We have a sophisticated body of anti-corruption legislation dating back to the late 19th century. In addition to having the legislative code correct, we need to see it being carried out

[Senator Lisa McDonald.]

and people being brought to task for corrupt acts. While I am not naming anyone in that regard, the public at large require persons who have been corrupt to be dealt with in a fair and judicious way under the law. I welcome the Bill.

**Minister for Justice and Law Reform (Deputy Dermot Ahern):** I thank Senators for their comments on this legislation which has passed through the Dáil. Obviously we would like to see its quick passage through the Seanad. I have indicated that we wish to proceed with the consolidation of all such legislation which dates back as far as 1889. During the drafting phase in my Department I was insistent that the Bill be such that it would refer not only to the net point, the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, but also include in dealing with corruption very broad provisions on whistleblowing.

In the other House a number of Deputies mentioned the Government's position on whistleblowing generally. The Government previously decided that we would deal with whistleblowing on a sector-by-sector basis rather than providing omnibus legislation that would cover everything. That was based on advice received from the Attorney General who recommended that it would be far more sustainable from a legal point of view to have specific whistleblowing provisions designed to deal with specific issues. Since that original decision to deal with it on a sector by sector basis we have introduced specific whistleblowing provisions in myriad legislative measures, ranging from the Protections for Persons Reporting Child Abuse Act 1998 to the Charities Act 2009, the Inland Fisheries Act 2010, the Employment Agency Regulation Bill 2009, the Employment Law Compliance Bill 2008 and the Local Government (Dublin Mayor and Regional Authority) Bill 2010, all of which contain whistleblowing provisions. If it was an omnibus provision and one of the provisions was knocked down legally, it would mean that across all the sectors we would have to introduce amending legislation promptly. The advice was that it would be better to do it on a sector by sector basis and tailor the whistleblowing provisions to suit circumstances.

Senator Regan referred to the working group evaluation by the OECD which carried out peer-led on-site reviews in Ireland in October 2006 and again in June 2008. The reviews were part of an ongoing process by the group in assessing each signatory country's adherence to the OECD convention. As I said, if the Bill is passed, we will have one of the most modern legislative measures on the Statute Book. However, I am firmly of the view that we should have consolidated legislation. Our near neighbour has such legislation. It would make it easier for our European counterparts when they come here, particularly from the agencies which oversee anti-corruption legislation in member states. Most of those in oversight bodies who come to this country are from jurisdictions which are dissimilar to the common law jurisdictions of the Republic and Britain. Rather than give them myriad legislative measures and enactments relating to corruption, it would be better to have everything in one place. It would obviously be far better for practitioners also if this was the case. It is part of the ongoing process — the desire of the Government — to consolidate as much legislation as possible.

Question put and agreed to.

**An Leas-Chathaoirleach:** When is it proposed to take Committee Stage?

**Senator Lisa McDonald:** Next Wednesday.

Committee Stage ordered for Wednesday, 1 December 2010.

**An Leas-Chathaoirleach:** When is it proposed to sit again?

**Senator Lisa McDonald:** Ar 10.30 maidin amárach.

### **Adjournment Matters**

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#### **Protected Species**

**Senator Fidelma Healy Eames:** While the Minister for the Environment, Heritage and Local Government threw the country into turmoil yesterday, I hope he will not do the same to the deer in question this evening. Will he restrict the issuing of section 42 licences for female deer from May to August to enable calves to become independent? This matter has been brought to my attention by people involved in wildlife conservation who have asked that the Minister not issue any more section 42 licences to kill lactating female deer from May to September, inclusive, as this practice has condemned hundreds of young deer to starve to death. While it is accepted deer can cause damage, female deer should be controlled at the correct time of the year. The current practice does not amount to sound environmental practice. Many summer young fawns will lie away from their mothers such that female deer will often appear not to have a calf at foot. The Irish Deer Society's policy is that deer should be properly managed, shot during the proper legal hunting season from 1 September to 3 December for male deer and 1 November to 28 February for female deer. Section 42 licences should only be issued in cases of extreme damage and under no circumstances for female deer from May to August. If female deer are to be culled in September and October, the calf or fawn at foot must be taken first.

The Minister may be aware of an article entitled, "Mr. Gormley's Double Standards". I am bringing it to his attention not as a cheap shot but to highlight a factor that may have been overlooked in the drafting of wildlife legislation. Why would one want to shoot a lactating deer with a calf at foot when the calf could subsequently die of starvation?

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** I thank the Senator for raising this matter and would first like to explain my responsibilities in respect of deer. All deer are protected species under the Wildlife Acts. Accordingly, deer may only be hunted under licence issued by the Department of the Environment, Heritage and Local Government. The open season for most deer species, including Red, Fallow and Sika, operates annually from 1 September to 28 February, depending on the gender and age of deer. This reflects the conservation needs of the species and genders concerned. For example, Muntjac deer are considered to be an invasive species and can be hunted at any time of the year.

The Department carries out localised annual deer counts on lands such as national parks. Where appropriate and depending on the annual count and instances of damage caused by deer to habitats, especially woodland, culls are carried out to ensure deer populations do not reach levels that would have negative ecological consequences. Control of deer on private property is the responsibility of the landowner who may apply to the Department for permission under section 42 the Wildlife Acts to cull deer when this is necessary outside the annual open seasons. A section 42 permission is a facility enabling a person to obtain permission on a case-by-case basis to take action against a protected species, including deer, which can include the scaring, capturing or killing of the said species in a situation where serious damage is being

[Deputy John Gormley.]

caused to agricultural crops, forestry plantations, other fauna, etc. They are subject to decisions taken by the conservation staff in the Department.

At all times the welfare of animals is taken into consideration. I have power under the Wildlife Acts to attach conditions to section 42 permissions which can prohibit the culling of female deer during a certain period. I have included such conditions in many section 42 permissions issued in recent months. For example, during the months from May to August this year over 30% of the section 42 permissions issued for deer excluded the shooting of female deer. In exceptional circumstances it is sometimes necessary to control female deer and their dependent calves.

I consider the procedures in place in my Department adequately protect female deer during the breeding season. I will examine the points raised by the Senator and see if my Department could be more vigilant in the matter.

**Senator Fidelma Healy Eames:** I am delighted the Minister made an exception this summer and ensured over 30% of the section 42 permissions issued for deer excluded the shooting of female deer. It is important, however, that it is made policy in order that it will be the exception rather than the norm that permissions are issued during the lactation period of female deer.

**Deputy John Gormley:** I understand the Senator's point and thank her for raising the matter.

The Seanad adjourned at 4.35 p.m. until 10.30 a.m. on Wednesday, 24 November 2010.