



DÍOSPÓIREACHTAÍ PARLAIMINTE PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Saturday, 29 January 2011.

SEANAD ÉIREANN

*Dé Sathairn, 29 Eanáir 2011.
Saturday, 29 January 2011.*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Finance Bill 2011 [Certified Money Bill]: Committee Stage

NEW SECTIONS

Senator Alex White: I move recommendation No. 1:

In page 7, before section 1, to insert the following new section:

“PART 1

COST BENEFIT ANALYSIS OF TAX EXPENDITURES

1. —The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on a cost-benefit analysis of tax expenditures provided for by this Act, setting out the costs of tax foregone, and the benefits in terms of job creation or otherwise.”.

It was interesting last night to hear the Minister say that even he was surprised to discover, with regard to the so-called section 23 relief which has been the subject of so much debate, the breadth or extent of rental income that an individual could rely on in claiming that relief and that it was not just rental income in respect of the particular property but all rental income across the board from all property held by that individual taxpayer. It was interesting not that the Minister was surprised but that, perhaps, it was something that had only come to light in his and many other people’s minds recently when there was far more scrutiny and public debate about these various reliefs. It raises a number of interesting questions, not least the desirability of having these reliefs in terms of policy and also the way we do business in these Houses and in public.

There is little or no debate about them, and this is not a criticism directed necessarily at this Government although it is culpable in many ways in respect of these reliefs. However, my point is not directed purely against the Minister but relates to the system of public debate about tax reliefs. Tax reliefs equate to income forgone by the Exchequer and, as the Minister has correctly pointed out on more than one occasion this week, if one reduces taxes or one’s income in one respect, one must look to another source to balance it. We must move towards a more mature public debate about taxation and the link between it and public services. We have not had a satisfactory debate on those issues for many years in this country but I believe we are returning to that now. People have a much keener understanding of taxation, the different types of taxes

[Senator Alex White.]

that are put in place in legislation and what it means if the State does not have sufficient income for the Exchequer to fund public services. That is at the heart of the current crisis.

There must be a deeper and more meaningful debate continually on these matters, not just once or twice a year at budget time or when there is a crisis. It should continue at a certain level across the board in our public discussion. However, we cannot do that unless we have information, and the public cannot do it without information. The Minister and his officials obviously develop a level of expertise on these matters but any Minister can only develop a certain level of expertise given all the things he or she must do. He or she must rely on expertise. We know from what we have observed in recent years that there is great ingenuity available to some citizens and taxpayers with regard to these schemes. Great imagination, to put it benignly, is applied to the issue of how people can use and maximise these schemes to their advantage. Often the expertise that is brought to bear in that regard is not always matched by the same fire power in the public management of our affairs, and that is not to reflect on the professions of the people in the Department of Finance, in terms of what is available to people for getting their way around and maximising these schemes.

It would greatly help the public and deepen the level of debate we can have in public if the Minister was required to publish a cost benefit analysis of all these schemes, certainly the more important and prominent ones which have a higher yield. It may not be something everybody would want to wake up to in the morning, but at least it would be available to the people in order that the debate could be enhanced and the level of information would be increased.

Deputy Burton said in the other House that there was essentially a democratic gap in these schemes. We know they are there and have a vague debate about them every year. We probably think there is a justification for them somewhere, as we remember something about a time when an attempt was made to incentivise people to develop particular parts of the country, be it along the River Shannon or parts of our inner cities and so on. We know there was a general public dividend at one stage that made it important to have these schemes in place, but many are not sure about the rationale for their continuation. Rather than simply say we will put an end to them, let us take the opportunity to have a better debate on what they mean. We should do this to deepen the level of public understanding about what is going on and, ultimately, avoid the abuse of these schemes, which clearly has occurred at various stages.

Senator David Norris: I commend my colleagues in the Labour Party for tabling this recommendation. It illustrates how seriously Seanad Éireann is taking the Bill. I can imagine no other reason for sitting on a Saturday, if we did not take it seriously. This is a well thought out recommendation which I am happy to support. However, I have a minor reservation which is that one month might be a little short. While I support the principle very strongly and I am happy to second the recommendation, I will be happy to listen to what the Minister has to say on the subject of whether this could practically be done. One thing we really need in this country right now is prudent supervision of the economy. This is an instrument that would allow us to do this. It is very important we provide for it for that reason.

We should not be ideological about tax reliefs, although I am not suggesting for one minute that Senator White is being ideological about the recommendation. I am here long enough to remember tax reliefs being introduced for various matters such as trying to ensure the redevelopment of deprived areas of the inner city. These are socially constructive because they will lead to investment by the private market in areas of deprivation. However, they need to be examined to see if they are working and ensure they are not being massaged by clever accountants in order to do things that the Legislature did not intend them to do. While we need to be

sensitive to these matters and not be ideological, we need to make sure they are not being abused.

We are here on a Saturday to try to pass a finance Bill that contains many difficult measures that will cause pain for the people. When discussions were taking place about how the Bill would be approached, the Minister claimed that there were immense logistical difficulties, yet it seems to have been done. One thing that worries me is that the Minister indicated that if the Bill was rushed through, it might leave scope for very clever accountants to come in and find methods of engaging in legal tax evasion. That is another point that needs to be borne in mind.

The recommendation refers to tax forgone. I am also interested in the question of tax yields. I know that is a projection and the Department of Finance has had a difficulty in the past in making accurate predictions. Sometimes it was too miserly in its predictions. During the boom years I remember the surprise expressed when its predictions had been extraordinarily exceeded, but it has also got it wrong the other way around. A degree of information on this would be helpful. Forecasts can only be made in looking at tax yields and we simply would not know in one month, but the principle of prudent governance comes into play. In order to be able to budget we need to know the likely tax yield from these various measures.

I am very glad that the question of job creation has been put before the House in the first recommendation. That is absolutely essential. We know that there are many very encouraging positive signs within the economy and it is important that we celebrate them. On the other hand, it is not a full victory if we have increased statistics for exports, various subtle yields for the IFSC and so on but still leave 440,000 people unemployed. That indicates we are dealing with an economy, not a society.

My final point——

An Cathaoirleach: We are on recommendation No.1.

Senator David Norris: I am aware of that and it is precisely what I am addressing. I really want to make this final point. The recommendation refers to the benefits of job creation, but there is also the possibility of job losses. I would like to put this point to the Minister right from the beginning of the debate which I am taking very seriously, a Chathaoirligh, as you will appreciate from the tone I am employing and the serious matters I am addressing.

Self-employed persons and others not in the PAYE system who are required to make a projection for the next year do so in October, but the date has been brought back one month. I have been listening to people who represent the backbone of the economy by providing employment through their investment in their small companies. They have to make this projection and this payment. They are on the margins and barely able to survive. If they are to be required to make this tax payment one month earlier, they will find it impossible to do so and may go out of business. That would be a job loss and related directly to the tax provisions of this Bill. The Minister should take a look at this issue to see if there is flexibility. If they do not have the money from their own resources, they will have to apply to the banks for a loan to get them through this period and they might find it impossible to do so. Therefore, they might go out of business.

An Cathaoirleach: I call Senator Cassidy. We are on recommendation No. 1. I do not want Members to make Second Stage speeches on any recommendation.

Senator Donie Cassidy: In an effort to give the other side of the story on tax relief schemes, as outlined, the State is the beneficiary by up to 40% even before the schemes are completed. That they are costing the State so much money is not actually true. There are urgently needed PAYE, PRSI, income tax and VAT returns through the provision of nursing homes, leisure

[Senator Donie Cassidy.]

facilities and so on which provide opportunities for people to find employment in their locality. The Government correctly recognised this. It indicated to the people who wanted to invest in their parishes and communities that these tax relief schemes were put in place as an incentive. The Irish people responded like never before because we had become members of the Economic and Monetary Union, EMU, we had low interest rates and people invested in their local areas.

The current difficulty is that a myth has been created that this measure has cost the Irish Exchequer. Before the doors of a nursing home or a hotel have even opened, the Exchequer has already received 40% of the total investment. If an investment of €10 million is put into a scheme, our Exchequer receives €4 million in hard cash up front before the doors open on the scheme. That must be taken into account.

If an investor, families or other people invest in schemes and give the Irish State 40% of that, it is unfair for the Irish State to break its word, its trust and the contract in which all these proposals came forward and which were passed by both Houses of the Oireachtas at that time and for the myth to be created, in our name as Members of the Oireachtas, that these schemes are costing the taxpayer an absolute fortune. They are doing no such thing.

The review that is taking place, as correctly stated by Senator Alex White earlier, if of the huge number of people employed in all of these areas. It is a high service sector area which is providing sustainable jobs across the Twenty-six Counties, not just on the east coast. It is providing sustainable jobs in Athlone, Ballinasloe and every part of our country that urgently needs jobs, particularly when we all know that 70% of our jobs currently are in the services sector.

I make the case in the first few hours of this Committee Stage debate on the Finance Bill the Minister and his officials must consider striking a balance regarding their schemes and the investment Irish people have made in the interest of keeping investment in their own local areas in particular.

Senator Liam Twomey: I accept what the Leader of the House stated regarding some of these tax reliefs. It is difficult to generalise but some of these schemes have been allowed continue long beyond their usefulness to the economy. Some of them are useful and as the Minister would have realised over the course of recent weeks, there is a great input into certain sections of society as a result of these tax reliefs but they must be targeted at every part of the country to maximise the social as well as the economic benefit.

An issue arises if a relief is stopped retrospectively. In the period since the budget contact was made with me by people who wanted to invest in business expansion schemes in the future. There was a concern that if the Minister cut reliefs now unilaterally, it would stop people investing in BES schemes in the future because they might feel the next Minister for Finance might do something similar. There is a concern that we must be careful about the way we handle these reliefs but we must also be careful because some of these reliefs were clearly abused and have no discernible input to the economy. I accept the Minister must give a good deal of thought to the way he will handle this measure.

Senator Jim Walsh: I concur with much of what has been said by Senator Cassidy on this matter. It is an interesting proposition but doing a cost benefit analysis subsequent to the introduction of the schemes does not appear to be the most logical approach. I assume that when these schemes are being introduced they are analysed and evaluated prior to being set up. What is required is an economic analysis in addition to an analysis of its effect on property price increases, given our experience.

Section 23 reliefs have been in place for approximately 30 years but one of the schemes that was introduced, I believe by Deputy Enda Kenny when he was Minister for Tourism and Trade, was the seaside resort scheme. That had the effect of bringing about an immediate regeneration of seaside resorts but it succeeded also in increasing the price of residential property in those areas by approximately 75%. There was a huge increase because of the tax breaks, and that is the kind of approach that must be considered and planned in advance.

As Senator Cassidy said, there has been tremendous economic benefit from the hotel schemes, the urban renewal schemes and even the business expansion schemes but a cap should have been put on the number of units that could have been built under them. That has led to a huge escalation in prices but underlying this recommendation, and on the comment by Senator Alex White along the lines that we needed to extract more taxes from the people who are working, and he identified the lack of tax revenues as being the source of the problem, that is an ill-advised evaluation of where we are now.

Most economic analysts and people with accounting backgrounds would say that our public expenditure is too high. The Labour Party wants to bridge that deficit gap by roughly taking 50% from an increase in taxes and 50% by way of public expenditure savings. The Minister has outlined that two thirds should be from a reduction in public expenditure and one third from an increase in taxes. That is a fundamental issue that must be debated. It goes to the core of the way we will handle our fiscal deficit but it also goes to the core of the way our economy will get back on the road to growth. Does the Minister feel as I do about this matter? I have examined some of these taxation increases. The universal social charge, which will be debated later, is 7% but if we take the fact that people will pay tax on that, it is the equivalent of a 12.73% reduction in gross pay.

I would have thought we have now gone to the limits of what we can do *vis-à-vis* taxation increases. I realise it is essential to bridge the gap I referred to, and it is the quickest way of reducing the deficit, but there must be increased emphasis on bringing back public expenditure to sustainable levels for the future. That should be the key element of the debate in the coming weeks. Will the Minister concur with the view that there is very little, if any, scope for further tax increases on the public and that it is a matter of achieving greater efficiencies and savings within our public expenditure as the primary target as we move forward?

Senator Joe O'Toole: I do not know how people can manage to turn logic on its head to such a degree but having listened to the two speakers on the Government side, and Senator Cassidy in particular, I agree with everything they said but I thought they were making the argument in favour of the recommendation. Everything they said is an argument in favour of the recommendation. It is the reason I am supportive of the recommendation so that I would know that 40% or 60% came back and that we would see the way this operates. That is hugely important.

Senator Cassidy said we should remember that all of this money is back in the Exchequer even before the doors of the hotel, nursing home or whatever are opened. I do not want to put words in Senator Alex White's mouth but is that not the reason he has put forward this recommendation? Everybody thinks in a simplistic way in terms of money in, money out but it is not like that. The money is churning around, so to speak, and that is the importance of it.

People have asked whether this is too much pressure to put on a Department in one month. Many things become clear in these kind of discussions but I assumed, perhaps naively and incorrectly, that before Government took a decision on the tax breaks or tax changes, the Cabinet papers supporting those proposals from the Department of Finance to the other members of the Government would state exactly that for which Senator Alex White has asked.

[Senator Joe O'Toole.]

In other words, this is simply a cut and paste of the argument that has been made because if somebody tells me this has not been done already, I will be appalled.

Surely it cannot be the case that decisions are taken without making available to the Cabinet and the Department the data, the outcomes, the consequences and the plans sought in the recommendation. I cannot see how this is a difficulty. This is about open government. This is about outlining how the Government came to deal with it. There are all sorts of reasons for it.

Quite correctly, Senator Walsh made comment on the seaside resort scheme that was brought in by Deputy Kenny when he was in the then Department of Tourism and Trade 11 years ago. I recall arguing with Deputy Kenny on this matter at the time. I asked him to justify, taking

an example in his own constituency, why Belmullet was not included in the seaside resort scheme as I felt it should have been. Deputy Kenny may have had a good reason, but he could not give me a reason and I could not find a reason.

11 o'clock These matters should be self-explanatory. We need to know the decisions taken and the thinking and reasoning behind them. The point raised by Senator Norris is correct. We might disagree with the decisions but we would learn something. We would learn the basis on which the decisions were made and we could point to the fundamental errors in the reasoning that led to their making.

Is there any argument against the proposed recommendation? If I were a member of a board and somebody brought forward game-changing proposals to the way we do our business, I would insist that the back-up papers for the members of the board — in this case, the Cabinet members — be made available. I would want to know exactly the points that were made by Senator Cassidy, namely, how much, if we do this, would come back to the Exchequer and how much would churn around. We do not get that information now; we get it from certain outsiders. For instance, the argumentation for and against metro north has done precisely that. Some say it would create a certain number of jobs and that there would be a number of jobs attaching to it because of the money that would churn around once it starts. The money would go from one person to another, it would be spent in the corner shop or wherever, it would then go back into the Government coffers and come back out in salaries, grants or whatever. These are the issues we need to examine so that the people know the gains and the losses. It would also clarify whether it would be a good idea infrastructurally to have all of those hotels, houses or whatever in a small county or area. City estates have been lobbed into beautiful towns and areas, such as Courtown and Westport. That may have been the Government's plan, but I will not go into that now. I would have liked to have heard at the time whether a limit could have been put on such developments. In such situations we tended to get a time-bound limit — Senator Cassidy made a reference to that — where the Minister in the budget stated the scheme would be in play for a period, for instance, two years, but surely that was hardly the limit that was needed. The limit has to do with the number of houses, hotels, or level of infrastructure required in an area.

Nobody on either side of the House has given any case so far against this recommendation. In fact, nobody has put forward any argumentation or case as to why we should not support this recommendation. I will be strongly in support of it and I hope the Minister would see his way to conceding the point.

Senator Terry Leyden: First, it is great to have the Minister here this morning. He is giving this House significant recognition by attending personally on a Saturday morning.

Senator David Norris: Hear, hear.

Senator Terry Leyden: We have a busy schedule and I thank him for being here. I hope he has considerable patience.

(*Interruptions*).

An Cathaoirleach: On recommendation No. 1, please.

Deputy Brian Lenihan: There has been a high quality of contribution so far——

Senator Terry Leyden: Of course.

Deputy Brian Lenihan: —and Senator Leyden had better match up.

Senator Terry Leyden: I will have no problem in rising to the occasion.

An Cathaoirleach: On recommendation No. 1 now, please.

Senator Terry Leyden: As an apprentice to the Minister's late father, I was well trained.

In the budget the Minister provided for the provision on section 23 relief and he has re-examined it. I welcome that. That is productive. He did not bulldoze through this provision. He could have, because it would have gone through the House, but he listened to the views on the effect of removing this without a cost-benefit analysis. That is very positive.

On the recommendation itself, I am sure Deputies Bruton and Noonan hope the Minister does not accept this amendment today because the Senators Opposite will get some shock if he does. Within a month they will not have this prepared.

A Senator: What nonsense.

Senator Joe O'Toole: Make the case or sit down.

Senator Terry Leyden: It looks, electorally, that Fine Gael and Labour will remove section 23 relief when they get in.

Senator Paudie Coffey: It is too late for point scoring.

Senator Terry Leyden: They will cut it.

An Cathaoirleach: If Senators do not wish to speak to the recommendations, I ask them not to indicate they wish to speak.

Senators: Hear, hear.

Senator Terry Leyden: I will speak to it now. I want to give the House a little background as well.

An Cathaoirleach: No. We all can give background.

Senator Terry Leyden: I apologise.

An Cathaoirleach: In Second Stage speeches, Senators can do so.

Senator Terry Leyden: On section 23 relief, I want to speak——

Senator David Norris: If the Cathaoirleach is referring to me, I did not make a Second Stage speech. Every element of what I said was directed at the sense of recommendation No. 1.

An Cathaoirleach: I did not say it was not.

Senator Terry Leyden: I want to make this clear too. I do not have a vested interest in this. I do not claim section 23 relief. I want everybody in this House when they get up to clearly state whether they have availed of section 23 relief, "Yes" or "No". I never have.

On the Shannon corridor, which enjoyed section 23 relief, the benefits that relief brought to Longford, Leitrim, north Roscommon and south Sligo are evident. One need only go to Carrick-on-Shannon and walk along the Shannon to see the result. The removal of this relief without a full cost-benefit analysis would leave these ghost estates impossible to sell. When one visits Tarmonbarry — I am sure the Minister visited to see the development carried out by a councillor —

Senator Paddy Burke: That is not related to this recommendation.

Senator Terry Leyden: This is related; of course, it is.

A Senator: Senator Leyden is arguing for the recommendation.

Senator Joe O'Toole: What is the relevance?

An Cathaoirleach: No interruption.

Senator Terry Leyden: I welcomed the extension of the seaside resort scheme by the then Minister for Tourism and Trade, Deputy Kenny. That will be evaluated, but let us see what was achieved in that regard as well.

In summary, the background was that in 1992, when my party was in Opposition, we came up with this concept, TDs, candidates and councillors went along with this, and we got a tremendous result. To remove it would be detrimental.

Senator Maurice Cummins: Senator Leyden will be in Opposition again and will have plenty of time to think about it.

Senator Terry Leyden: However, I welcome the cost-benefit analysis idea. Certainly, I cannot vote for it because I do not want to embarrass the Opposition parties.

Senator Paschal Mooney: The Minister for Finance must be somewhat relieved at the news overnight from the World Economic Forum at Davos that almost certainly there will be changes made in the coming months, particularly to Ireland's debt burden. As this section, like many others, has been included in the Finance Bill to raise revenue, maybe the incoming Government will be now able to examine a new financial environment of the debt burden on Ireland, which all of us will agree is unsustainable. It is now being suggested that the debt could be spread over not seven, but 30 years, which would relieve considerably the Irish debt burden. I hope that such will come to pass in the interests of the country. I think all of us agree the EU/IMF package, despite the best efforts of all involved to conclude a successful package, has placed an unsustainable debt burden on this country.

References have been made to the coastal resort scheme, which was, most certainly, as Senator O'Toole and others have said, introduced by Deputy Kenny in 1994. At the time that was an excellent scheme. When it became apparent that there would be a drive towards the Shannon corridor tax scheme to which Senator Leyden referred, which was initially discussed by Deputy Killeen, then Fianna Fáil spokesperson on tourism and who came to visit that corridor at the time, I spoke to several officials in the Department of Finance. I could not help but reflect that we were being watched from outside as we went through this, and I am sure

people were learning a great deal. It was also proposed that the scheme was about repopulating counties such as Leitrim which had experienced a severe haemorrhage of population. The conditions imposed at that time on the tax reliefs that would be gained, particularly from the private residential sector and from the commercial sector, were quite severe. Unfortunately, I must say in the dying days of this Administration that the building lobby got behind public representatives in my party and managed to dilute the original intention, which was to repopulate those counties. They managed to dilute the restrictions in terms of who would buy the houses and the tax relief for those purchasing the houses. Moreover, because of what had happened under the coastal resorts scheme in places such as Kilkee, County Clare, where it had resulted in over-development that was referred to at the time as “bungalow blitz”, the restrictions even went so far as to ensure this would not happen along the River Shannon corridor. Sadly, however, it did. I agree with Senator Leyden on one aspect with reference to Carrick-on-Shannon. The commercial tax breaks proved not only to be essential but were also the foundations for the economic regeneration of the River Shannon corridor counties and unquestionably have worked really well. However, I am afraid that one can see ghost estates in my home town of Drumshanbo. I look out my window at empty estates that have been taken over by banks because the developers involved were no longer able to sustain their interest payments. Consequently, properties such as four-bedroomed houses that were valued at €320,000 in the small town of Drumshanbo with a population of 800 in the heart of rural County Leitrim have been sold off in recent months for €140,000 and €150,000. As I believe Senator O’Toole noted, the trickle-down impact on other properties within the area has been to depress the market.

That is the background to and context for this debate on section 23. I suggest to the Minister that it is inevitable, once all Members, particularly those of us on the Fianna Fáil side who have been tainted by this spurious link with building developers——

Senator Jerry Buttmer: Spurious. What does the Senator call the Galway tent? Was it a mirage?

Senator Paschal Mooney: It is essential that any analysis of the section 23 relief consider its economic impact and spell out the various professions of those who have purchased section 23 properties. One will find that they are not major, medium or even small-time developers but ordinary working men and women in the public sector, as well as those who had the money to be able to purchase such a property. As Senator Cassidy has stated repeatedly in this House, many such persons are now caught in a debt trap. While they were able to pay the interest on these properties heretofore, they are now being loaded with the principal sum after a period of four or five years because many of them were bought between 2005 and 2007.

Senator Donie Cassidy: Exactly.

Senator Paschal Mooney: In addition, they are in negative equity and, as all Members are aware, the rental income they were gaining to pay off their mortgages has been reduced in both town and country. Consequently, in the interests of transparency, I seek both an economic impact assessment of the devastating effect this section will have on all those concerned and, for the benefit of the media and the public, that the Department of Finance also categorise the persons who have purchased a section 23 property and are gaining tax relief thereon. I believe one will find that the overwhelming majority are ordinary individuals or groups of people such as nurses who have come together or other professionals who purchased the properties to live and work in them. My plea to the Minister is within the context of this economic impact assessment. Moreover, the Revenue Commissioners could supply the categories and data protection concerns would not arise as this has nothing to do with naming individuals. The proposal

[Senator Paschal Mooney.]

is to categorise recipients in order that the public will know the debate in this House is about the efforts being made to dilute the financial impact on those caught in a debt trap.

Senator Michael McCarthy: I will revert to the content of this recommendation which refers to the carrying out and publication of a cost-benefit analysis. One needs to be familiar with the information behind such schemes. People are entitled to know what are the benefits, if any; what is coming in and what is going out and to be aware of revenue or income forgone. The making public of such information would be helpful in the construction of a balanced debate on this entire issue. Second, in the current climate any tax incentive scheme or any scheme of this nature should be considered in the context of stimulating growth and job creation because this is the single biggest issue facing the country. As Members are aware, the outlook on the unemployment crisis is bleak. Third, when legislation such as this is being framed, many of the terms used are beyond the technical expertise of many parliamentarians in both Houses. The legislation is constructed in a manner that only lawyers and tax consultants can understand. There is also an issue in respect of how the information and the associated terminology can be simplified to make a connection with the ordinary Joe Soap.

An Cathaoirleach: I refer to the time allowed to me and note that a number of Members still wish to make a contribution on this recommendation. As the Minister will not have an opportunity to reply to them, I ask Members to be brief.

Senator David Norris: On a point of order and to be helpful, I have just remembered that on the Order of Business yesterday, in the ordering of today's business, an indication was given of the time limits that would be used. However, I do not see it.

An Cathaoirleach: I will put the proposal regarding sections 1 to 41 at 11.30 a.m.

Senator David Norris: I cannot see the information on the screen as it is too far away. I was going to say that were the information on the time allowed to be recirculated to Members, it might focus their minds on the matter.

Senator Paul Coghlan: This recommendation makes eminent sense. It proposes a cost-benefit analysis of tax expenditure and the benefits gained in respect of job creation; the latter must be the first priority. This is completely in line with the Minister's own impact assessment of some of the other matters dealt with in the Bill, as well as the schemes commented upon widely. Some schemes may have been extended too far or have gone too far, but I completely agree that there is a need for an economic impact assessment and a cost-benefit analysis as proposed. I am sure the Minister will agree that this must be a *sine qua non*. As Senator O'Toole noted, the Minister would not make any decisions with his senior officials without this information. It is fundamental to have such an analysis. With regard to the schemes in place in a general sense, the reason I agree there should be an economic impact assessment is that from henceforth two arms of the State effectively will be competing for diminishing resources. The banks, now largely nationalised or in majority State ownership, will be competing with the Revenue Commissioners for funds. Consequently, I completely agree with the thrust of this measure, as well as the recommendation, because job creation must be foremost in all of our considerations.

Senator Shane Ross: I thank Senator Alex White for tabling this recommendation which I would have thought was self-evidently necessary. The elephant in the room in considering such tax incentives is that they have been abused in the past. They have been used to put things in various areas for political preference, as Members have just heard in this Chamber, as speakers

have commented on how they have done a great job for County Leitrim or other areas and that such incentives have been used nakedly for electoral and political gain. That is the reason it is absolutely——

Senator Mary M. White: Leitrim is an outstanding county whose people are outstanding and that is rich in natural resources.

An Cathaoirleach: No interruptions, please.

Senator Shane Ross: In that case, let us have a cost-benefit analysis. Senator Mary White should note that a cost-benefit analysis has been conducted of such incentives. The Minister or his officials will be aware that both Indecon and Goodbody Economic Consultants examined all of these tax benefits in the raw and the round some years ago and came up with some startling conclusions. They concluded that some of them were okay and of benefit to the economy and employment but that a lot of them were a complete waste of money and utterly counter-productive and benefited builders and developers. In the round, however, they stated all of them put together were of very little benefit to either the economy or the people. Consequently, it is only reasonable for Members to call for an examination to ascertain whether such incentives make sense economically, environmentally and in every other way. It is staggering to even think more such incentive schemes are being introduced without knowing whether they will be beneficial. I accept they are introduced in a hurry and that some of them have been beneficial, but why can we not have in place an independent outside body, outside the Department of Finance which is suspect in its analysis of everything at this point, to decide whether such incentives will benefit the people for whom they have supposedly been introduced? Whatever Senators Mooney and Walsh may say, many of them were introduced for builders and the people who benefited. Moreover, were a cost-benefit analysis to be carried out of many of the aforementioned property schemes, they would be even worse overall because ordinary people are suffering as a result of falling for the bait. Consequently, it is only reasonable that such analysis be made in advance, not afterwards. If the Minister could look at what Indecon and Goodbody found, they found all these schemes should not have been introduced at all.

Progress reported; Committee to sit again.

Business of Seanad

Senator Joe O'Toole: I understand what we are doing now and that these recommendations must be decided on at 11.30 a.m. What happens if someone wants to raise a point on a section that is not included in a recommendation?

An Cathaoirleach: He will not be able to do it.

Senator Joe O'Toole: I think we should reorder our business.

An Cathaoirleach: If we move from what has been agreed between the leaders and Whips, there will be a knock-on effect.

Senator Joe O'Toole: I accept that. I am not suggesting a knock-on effect, rather that this section could flow into the next, continuing until 12.30.

Senator Paul Coghlan: Wise counsel.

Senator Joe O'Toole: I am not suggesting extending business at all.

An Cathaoirleach: At 11.30 a.m. I am obliged to put the question on sections 1 to 41, inclusive.

Senator Donie Cassidy: I have discussed this with Senator Fitzgerald, the leader of the main Opposition party, and if some sections require more time than others, within the time indicated and agreed yesterday, in an effort to facilitate those who wish to make their views known on this important section, I propose to extend the time as required by the Opposition.

An Cathaoirleach: I must chair the sitting in accordance with the ordered business and that I intend to do unless the order is changed. What is the exact position at 11.30 a.m.? I said that points could be made briefly on the recommendation without Second Stage speeches. That accommodates everyone.

Senator Joe O'Toole: I suggest the Leader propose a change to the Order of Business whereby the business that was supposed to be concluded at 11.30 a.m. be allowed to continue through the next section in order that all discussion is encompassed at 12.30 p.m. The only change would be that we do not finish this part of the Bill at 11.30 but we will still finish at 12.30 p.m. as intended.

An Cathaoirleach: So the guillotine is being moved back from 11.30 a.m. and both Parts will be guillotined at 12.30 p.m.?

Minister for Finance (Deputy Brian Lenihan): All the recommendations relate to the first session.

An Cathaoirleach: Four more Senators wish to contribute on this and I will then call on the Minister to reply. Is that agreed?

Senator Donie Cassidy: I am proposing that.

An Cathaoirleach: Debate on sections 1 to 54, inclusive, will conclude at 12.30 p.m. Is that agreed? Agreed.

Finance Bill 2011 [Certified Money Bill]: Committee Stage (Resumed)

NEW SECTIONS

Debate resumed on recommendation No. 1:

In page 7, before section 1, to insert the following new section:

“PART 1

COST BENEFIT ANALYSIS OF TAX EXPENDITURES

1. —The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on a cost-benefit analysis of tax expenditures provided for by this Act, setting out the costs of tax foregone, and the benefits in terms of job creation or otherwise.”.

—Senator Alex White.

Senator Mark Daly: Like Senator Leyden, I am opposed to this. I do not know whether the Labour Party Senators got clearance from their Dáil spokesperson but if we did this within one month, we would need to hold the general election in March.

Senator Alex White: Why?

Senator Mark Daly: Because it cannot go before the Dáil.

Senator Alex White: The Dáil is sitting this evening.

Senator Mark Daly: The recommendation states: “The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann”. The Dáil will no longer be in existence in one month.

Senator Alex White: The Minister can go ahead and do it; he is still a Minister.

Senator Mark Daly: The Senator should know we are supposed to dissolve the Dáil on Tuesday.

Senator Alex White: He can leave it at reception.

Senator Terry Leyden: The Dáil will not be in existence.

Senator Alex White: He can leave it at the reception and we can pick it up when we come in.

An Cathaoirleach: We are in Seanad Éireann and we are dealing with the Finance Bill.

Senator Mark Daly: I am dealing with the wording of the recommendation.

Senator Alex White: That is a pathetic objection.

Senator Mark Daly: Pardon?

Senator Alex White: It is a pathetic objection.

Senator Mark Daly: It is not as pathetic as the wording of the recommendation.

Senator Alex White: Amend it then.

Senator Mark Daly: If you are going to come into this House——

Senator Alex White: Through the Chair.

Senator Mark Daly: —you should at least say “two months”.

Senator Alex White: Through the Chair.

Senator Mark Daly: You are the one talking to me and I am talking to you.

Senator Alex White: There is the Chair, up there.

Senator Mark Daly: As Senator Leyden said, we should make declarations about this and I, as an auctioneer, was involved in selling section 23 properties.

Senator Shane Ross: Shame.

Senator Mark Daly: I felt at the time that some of these tax exemption sections were quite good, such as the section dealing with nursing homes, but the holiday home exemptions went on for too long. Senator Ross is right about that. They should have been closed off in many areas.

[Senator Mark Daly.]

In my home town there were a number of planned developments and we were lucky they did not go ahead. If, however, the section was taken out, people who rented out a business such as a shop using section 23 relief to shelter the income from the shop would now be in a situation where the rent from the shop would no longer be sheltered and they would have to use what was left from the after tax income from the shop to pay off the section 23 mortgage because none of the section 23 properties would provide any income, not even enough to pay off management fees. We would then be left with a situation, especially for section 23 holiday homes, where the estates would not be managed properly because there was no income and they would deteriorate.

I agree with the thrust of the recommendation but it is a shame the Labour Party did not allow for more time, perhaps three months. The idea is good and the Minister is looking at the situation. I raised concerns previously about the selling off of these estates. There was a case in Kenmare where the auctioneers were involved in a fire sale. The *Irish Examiner* property supplement published a headline reading “Fire sale in Kenmare”. The auctioneers were telling their friends they should buy these because they are bargains. Auctioneers are supposed to achieve the maximum price, not sell bargains. The loans were held by Anglo Irish Bank — the taxpayer — which told the receiver to maximise the value of the properties, who then told the auctioneer to sell the property and the auctioneer told his friends they were bargains. They were selling them below the market rate. We told those auctioneers they were selling below the market rate, that we had sold six similar properties in the last six months and we estimated that the price being asked would cost the taxpayer €1 million.

Senator Paddy Burke: How does Senator Daly know the market value?

Senator Mark Daly: If that loss were extended to cover other fire sales in similar properties, including section 23 properties, the cost to the taxpayer would be in the hundreds of millions, if not billions, of euro. If section 23 relief is withdrawn unilaterally, there will be a double crash.

I raised a related point during the week that NAMA was not following the legislative provisions in the selling of properties under its control. It is not even following the code of conduct for State bodies. When it comes to the sale of section 23 properties and other properties by liquidators, we need transparency. Legislation provides for that but NAMA, in the case of numerous properties being sold on its behalf by the banks, is not following the provisions laid down. People have come to me disgusted that the guys who had borrowed the money originally are buying back their own debt for 50% or 75% less, knowing well that the properties were undervalued. I will speak against my profession in this regard. The valuers undervalued the property initially, because most of their valuations were desktop valuations. They undervalued it and the banks took a haircut of 40%. In the case I came across the original loan was €12 million and the haircut was €6 million, while the actual value of the property was €9 million. The developer went back and arranged for a buddy to buy the property at the haircut price of €6 million and sold it on for €9 million, costing the taxpayer.

An Cathaoirleach: We will be debating this until 12.30 with the way Senators are making speeches.

Minister for Finance (Deputy Brian Lenihan): The Senator should supply the details of that transaction to NAMA.

Senator Mark Daly: I will.

Deputy Brian Lenihan: The Senator has not done so to date.

Senator Mark Daly: I have not. I am not an investigator, but NAMA is not following the code of conduct. It says it does do not have to. Transparency is the key factor in this matter, but NAMA is not following the code of conduct.

Deputy Brian Lenihan: The Senator is under privilege in this House, but he should provide whatever information he has.

Senators: Hear, hear.

Senator David Norris: The Senator is a public representative. He should name and shame.

Senator Jerry Buttiner: The Senator should give the Minister the information.

Senator Mark Daly: As I am not a member of the Garda, I cannot do that. When I have information of wrongdoing, I will put it before somebody.

Deputy Brian Lenihan: The Senator has not suggested wrongdoing, just bad commercial practice.

An Cathaoirleach: We are on recommendation No. 1. The Senator has made his point well.

Senator Mark Daly: NAMA has turned around and said it does not have to follow the code of conduct for the sale of State assets. I maintain these are State assets because we provided the money. NAMA owes us the money. I do not care whether NAMA follows the code or not, but there is no transparency and there are bad practices going on. I do not want to be doing a post mortem here in a year's time when it has cost the taxpayer hundreds of millions of euro.

Deputy Brian Lenihan: We would all agree with that, so please give me the information.

Senator Mary M. White: I am delighted to welcome the Minister and it was a pleasure to hear his exemplary speech yesterday. Despite the ranting and raving from the other side of the House, there is no doubt the economy is beginning to grow and thrive again. I am completely optimistic on that front. My job as a politician is to inspire hope in people.

As a business person, I would like to raise the issue of the abolition of the tax exemption for income received by an individual or company from a qualifying patent. The tax exemption for distributions made by companies from exempt patent income has also been abolished. This measure was announced on budget day and was also included in the list of tax expenditure set out in the national recovery plan for abolition or restriction. The abolition of the exemption applies to income from a qualifying patent which is paid on or after 24 November 2010, which was the date of publication of the plan. I have spoken to the Minister of my disappointment that we were not able to prevent the abolition of this exemption. I hope the new government, of which I hope Fianna Fáil will be a part, will carry out a cost benefit analysis on section 26 and the abolition of patents.

The sudden abolition of this exemption has serious negative implications for the future investment plans of SMEs at a time when we should be encouraging them to invest in innovation as part of our economic revival. As I have said many times, innovation is the name of the game with regard to creating employment, increasing exports and getting growth. The continuation of the patent exemption scheme was recommended, with some modifications following the only specialist study carried out, namely, the Goodbody economic consultancy study of February 2007. The Government innovation task force of March 2010 also specifically recommended its continuation. The commission on taxation recommended abolition, but adduced no evidence to support its conclusions. Rather than abolish the royalty and patent scheme entirely,

[Senator Mary M. White.]

I suggest the new government should arrange a cost benefit analysis and restrict the scheme so that it remains as an incentive to the SME sector to invest in research and development. Research and development involves risk and companies, because of the lack of cash flow from the banks, need as much investment in that area as they can get.

Senator Terry Leyden: An excellent contribution.

Senator Paddy Burke: Every speaker so far has been in favour of this recommendation. It is a reasonable recommendation in that it sets out the cost of forgoing tax, the benefits in terms of job creation and the tax expenditure provided for in the Bill. One of the first schemes in this country was the one mentioned by Senator Leyden, which was introduced by Deputy Enda Kenny, the seaside resort scheme. I remember that scheme well and know exactly what happened. It was one of the first schemes introduced and there were no proper plans in place for dealing with it. Some schemes should have a longer lead in time and proper plans should be put in place. Nobody seemed to know exactly what was to be achieved with the holiday resort scheme. We should have learned something from that. With regard to the scheme for hotels, we should have set a target as to how many extra hotel beds were needed. The same should have happened with regard to the car park schemes. We should have considered how many extra car parks we needed and where they were needed. The same should have happened with nursing homes. If it is the case that we need these schemes, this recommendation is central to any plans that should be put in place. Therefore, I fully support the recommendation put forward by Senator Alex White.

Senator Niall Ó Brocháin: I welcome the Minister. There is an element of motherhood and apple pie with regard to this recommendation. As somebody who has worked as a cost accountant in the past, I agree with the need for cost benefit analyses and I commend the Labour Party on bringing forward the recommendation. The notion of a cost benefit analysis for almost every aspect of government is crucial and there should be more of them. I see this as an administrative function and I hope the Minister will give a commitment today that a cost benefit analysis will be done. However, it seems unnecessary to include the requirement in the legislation. We do not need to include every administrative function that should happen into legislation. This is particularly relevant with regard to the one month clause. This Bill is likely to be passed today, which means that we would have to have the report by 29 February, which does not exist this year. There would also be a three-week election campaign in that time. I presume the recommendation means the report should be done by Tuesday, 1 March. It would be lovely to see a cost benefit analysis done by that time, but the one-month timeframe is impractical. I hope the Labour Party accepts the spirit of consensus with regard to a proper cost benefit analysis——

Senator Alex White: Of course, within three months.

Senator Niall Ó Brocháin: Everybody would like to see a cost benefit analysis done, but I would be happy if the Minister committed to informing his officials that it should go ahead while the rest of us are out fighting on the hustings. Then, the new government, whoever is involved, whether the Labour Party, Fine Gael, Fianna Fáil or, heaven forbid as some might say, the Green Party, should begin by doing things the proper way. Openness and transparency will be crucial. I commend the Minister on the recommendation, but I hope the Minister will give us a commitment that he will work with his officials to bring about what is required, without necessarily including a specific provision in the Bill.

Senator Ann Ormonde: I have already spoken on the issue of section 23 provisions on Second Stage. I am not speaking for the big developers, big businessmen, auctioneers or valuers. They are well able to speak for themselves. I am speaking for ordinary people who have spoken to me about this. These are people who invested in a house under section 23 in order to provide for their pensions or education. These people are now worried they will be caught with debts when the tax relief scheme is changed. The Minister said he will look at this issue and do an analysis with regard to how it will work. There is no doubt the initial introduction of the scheme was not properly planned and that it has been abused. However, I urge the Minister to ensure that those who entered contracts in good faith will be given five, six or seven years' grace in order to readjust themselves to any changes that will be introduced. While I welcome the Minister's proposal to conduct a cost benefit analysis, I am still concerned. I am not saying we should plan for big developers. I am speaking on behalf of the ordinary man and woman and want the media to know this.

Senator Feargal Quinn: I have a problem because I wish to raise one topic under section 19. I gather——

An Leas-Chathaoirleach: We are discussing recommendation No. 1.

Senator Feargal Quinn: I know we are. Does that mean I will be unable to raise the topic I want to raise?

An Leas-Chathaoirleach: We need to dispose of recommendation No. 1 and the quicker we do this, the sooner we can move to section 19.

Senator Paudie Coffey: This is a reasonable recommendation. The Minister can come back to us on whether it should be provided for in legislation and whether the time for the cost-benefit analysis should be adjusted. It is reasonable that we would require such an analysis. A basic business plan would require such an analysis and it should be no different when it comes to running the country. I acknowledge that where incentives were provided, employment was created in the west, but saturated levels were reached, which has had a negative social and infrastructural impact on the areas in which the houses were built and the local authorities with responsibility for them.

Senator Ormonde referred to ordinary people and the taxpayer. I have no doubt that many of these schemes were abused by wealthy people who loaded a great deal of money into them to lower their tax burden and, in some cases, they paid very little tax. Many ordinary PAYE workers did not have the income to benefit from such schemes.

I acknowledge the holiday homes schemes regenerated some seaside towns and villages, but they were also abused and saturation was experienced. The concept was good, but the implementation and administration of the schemes were poor and they have also had a negative social impact. There are ghost estates in small villages in the west. What will happen to the houses? They are a burden on local authorities which have to service them. This has also had a negative effect. I agree that we should consider a measure to allow people who might be to the pin of their collar to readjust their finances in order that they do not go bust.

I am familiar with the urban renewal scheme which was implemented by local authorities in 1998. The concept was good as it was hoped to incentivise people to invest in regenerating small towns and villages, but, unfortunately, the take-up was low. Why were people not willing to invest? They could have invested in sustainable developments in town centres. but the take-up was low. In the designated areas in County Waterford consultants and local authority staff spent a great deal of time compiling strategies and plans, but the take-up was low and the

[Senator Paudie Coffey.]

regeneration did not happen. While I agree with the concept, there should be a cost-benefit analysis. The Minister will outline this views on how it should be framed or managed. We need to be realistic, not tie the hands of the Minister. A basic business plan would require this level of analysis and the country requires the same.

Senator Joe O'Reilly: The arguments have been well rehearsed. I strongly support the recommendation tabled by Senator Alex White and his party. I congratulate him because it is worthwhile.

Spending will have to be rigorously assessed in the future and the two criteria that will have to be used are whether the funding will contribute to job creation, on the one hand, and, on the other, alleviate the needs of the vulnerable and contribute to the good of society. In other words, a cost-benefit analysis of expenditure needs to be conducted and waste eliminated. In that sense, the principle underpinning the recommendation is a good one. Senator Alex White accepts the timeframe would be tight at one month and it needs to be adjusted.

Government Members have eloquently said that within the schemes there was the good, the bad and the ugly and delineated cases of each. Implicit in what they have said is the need for an evaluation and, in that position, a vote in support of the recommendation. To use that awful contemporary cliche, the recommendation is a no-brainer in the sense that one could not posit a view in contemporary society that one would spend money without having projections before it was spent and, having spent it, without assessing its impact.

The urban renewal scheme was interesting in that it did a great deal of good, but it also had a negative effect by creating small ghettos in the alleyways of towns and with unpleasant apartments constructed in areas where they were not appropriate. The ghost estates are the most awful outcome of the recent schemes, but significant good was done also. Job creation must also be a criterion for similar schemes in the future.

I came across an interesting case in Bailieborough, County Cavan. It was proposed to create a small ecotourism village with a residential area in which interesting courses would be provided and so on. It had job creation potential and tourism and other implications. It was a well presented scheme, but it was undermined by the windfall tax on land. We had to meet departmental officials who were helpful. However, there are good exceptions to general rules and they need to be evaluated. Constant evaluation and monitoring are needed. The principle of the recommendation is a good one and as such, we should all support it unanimously.

Senator Jerry Buttiner: Everything we do must have job creation at its core. One of the greatest failures of recent years, as Senator Burke rightly said, was the building of hotels throughout the four provinces. How many are idle? What are they being used for? How much has the Exchequer forgone in tax reliefs? Every proposition made by Government Members has supported the recommendation. As Senator O'Toole rightly said, it makes common sense. The Minister in preparing the budget and the Bill was given briefings, supporting documentation and advice. As Senator O'Toole said, that should also be provided for Members.

The recommendation seeks a cost-benefit analysis. What is wrong with that? How many hotels dotting the landscape are empty and idle? Where is all the money and the jobs gone? One hotel in Cork city is being used as a centre for asylum seekers.

An Leas-Chathaoirleach: The Senator is being repetitive.

Senator Paul Bradford: I support the principle of the recommendation, but if we want to ensure the budgetary process provides for a full debate and analysis and proper decision-making, we need more than this recommendation. The Minister will be aware that we need to

examine the budgetary process in greater depth through the committee system. The finance committee works well, but if it was given new terms of reference or a budgetary committee was established, significant questions relating to expenditure, tax forgone and cost-benefit analyses could be addressed. That would be a useful addendum to the recommendation which, like my colleagues, I support. On Second Stage I outlined the danger of us entering the Orwellian realm of “four legs good, two legs bad”, of suddenly deciding in retrospect that every tax relief is wrong, which is not the case. Much good work has been done and infrastructure has been put in place in this country due to tax reliefs. I, and many of my colleagues, made representations to the Minister in the past year on the provision of tax relief for the new primary medical centres. I make no apology for that.

Senators: Hear, hear.

Senator Paul Bradford: The Minister will be aware from his colleague in the Department of Health and Children that the Government, fully supported by the Health Service Executive, has proposed the development of a large number of primary care centres which would transform the health care of every citizen on this island. We, on this side of the House, concede that without some degree of tax relief or incentive, that will not happen. We cannot have our cake and eat it. We must recognise that there must continue to be some degree of flexibility on valid tax reliefs. Primary care centres stand out as deserving of such support.

The Labour Party recommendation is useful in the sense that it forces us to do more long-term thinking on our budgetary process. When the new Administration is in place, I hope it will encourage debate on the concept as it would make for much better decision making. I formally support the recommendation.

Deputy Brian Lenihan: I oppose the recommendation on technical grounds and on grounds of principle, but I welcome the discussion which the recommendation has engendered in the Seanad. I support the spirit of the recommendation.

Technical problems were identified by Senator Norris early in the debate when he said a month is clearly far too short a period for such an exercise. One would need two to three months as a minimum period. An interesting point was raised to the effect that the Dáil will not be in existence at the time of the submission of the amendment. They are technical matters and could be cured with an appropriate amendment.

It is important to understand that what the recommendation proposes is a cost benefit analysis of the 13 tax expenditures or tax reliefs in the Bill. That is the substantive proposal before the House in this recommendation. A total of 13 sections in the Bill involve tax expenditures. As Senators are aware, another finance Bill will have to be passed this year to give effect to the civil partnership legislation and to other measures which have had to be postponed because of the truncated timescale for the Bill.

Given the pressing issues facing the economy and the country, including the possible change of Government and of ministerial personnel, the Department will require much time for tasks other than producing a cost benefit analysis of measures as a matter of statutory obligation. I agree with Senators, however, that the completion of cost benefit analyses or economic impact assessments is required on the majority of tax expenditures before they are introduced.

Only 13 sections involve tax expenditures and the two of greatest importance, which are innovations, are the employment and investment incentive and the energy efficiency measure relief. They are the two major new incentives in cost terms in the Bill. I can meet the spirit of the recommendation by pointing out that an assessment of the employment and investment incentive relief will be completed and published shortly. A similar assessment of the energy

[Deputy Brian Lenihan.]

efficiency measure relief will be prepared before the section is commenced. The measure is subject to a commencement order. A proper cost benefit analysis of tax expenditures before their introduction is being done in the context of the two major tax reliefs being introduced in the legislation. To that extent the practice to which many Senators referred of insisting on proper cost benefit analysis before the introduction of those measures is being followed.

I discussed section 23 relief, property reliefs and capital allowances on Second Stage yesterday. The need for a statutory requirement was included because it was part of the EU-IMF arrangement. Therefore we had to show good faith in statutory terms that there was an absolute commitment and that the issues involved were so great that they required that kind of analysis underwritten by statute in order that we could, if one likes, postpone our obligations under the agreement. That is the thinking on the measures in the Bill. I hope that is a satisfactory explanation of the terms of the recommendation and the Bill itself.

Senators naturally and properly availed of the subject to peg a wider discussion on tax expenditures and tax reliefs. I wish to make a number of reflections in that regard. First, I agree with the general direction of the debate on all sides. Most Senators expressed concerns that we had not thought through tax reliefs enough in the context of their place in the economic system, that there was not, as Senator Norris said, a sufficient analysis in forecasting terms of what was at stake. Incidentally, I can inform him that my Department had its forecast right on tax receipts for 2010.

Senator David Norris: I congratulate the Department.

Senator Jerry Buttiner: It is the first time it got its forecast right.

An Leas-Chathaoirleach: The Minister should be allowed to speak without interruption.

Deputy Brian Lenihan: I could list a number of other cases for the House as well.

Senator Jerry Buttiner: The Department got it wrong.

An Leas-Chathaoirleach: The Minister should be allowed to speak without interruption.

Senator Jerry Buttiner: That was the case for a long time.

An Leas-Chathaoirleach: Senator Buttiner should please allow the Minister to speak without interruption. We are on a very tight time schedule.

Deputy Brian Lenihan: I assure Senator Buttiner we will have good fun on the hustings but when one is piloting a ship in a storm, the important thing is that one keeps the ship afloat.

Senator David Norris: And stay at the wheel.

Deputy Brian Lenihan: Exactly; stay at the wheel.

Senator Jerry Buttiner: If one's compass is off, one is going nowhere.

Deputy Brian Lenihan: No one could suggest I did not.

Senator Jerry Buttiner: Not without a compass though.

Deputy Brian Lenihan: I thank Senator Norris.

Senator David Norris: The Minister did but some of his colleagues jumped overboard.

An Leas-Chathaoirleach: The Minister should be allowed to speak without interruption.

Deputy Brian Lenihan: I entirely agree that the compass at times was out of control.

Senator Joe O'Toole: It is the ha'porth of tar.

Senator Paudie Coffey: The officer class had jumped ship.

Senator Jerry Buttiner: There were men overboard.

An Leas-Chathaoirleach: Please. The Minister should be allowed to speak without interruption.

Senator Jerry Buttiner: The Minister——

An Leas-Chathaoirleach: Please, Senator Buttiner.

Deputy Brian Lenihan: I prefer to think that I was the chief engineer on the ship and that I was not afraid to get my hands dirty.

Senator Jerry Buttiner: We will have to ask Deputy McGuinness.

Deputy Brian Lenihan: On the wider aspects of this important question, one of the experiences I had in government on tax expenditures was that individual Departments defend the tax expenditures associated with their particular Department. The Department of Enterprise, Trade and Innovation will defend the tax expenditures associated with the incentivisation of research and development, patent royalties or shared bonuses for employees. The Department of Agriculture, Fisheries and Food will defend the various tax reliefs associated with the farming community. Although those tax expenditures involve substantial postponement of public revenue, no real evaluation of them is done at departmental level.

For example, when one prepares the annual Estimates for expenditure, a detailed evaluation of the expenditure plans from each Department arrives in my Department and there is debate about what the expenditure allocation should be in individual Departments. When I was first appointed, I found the debate about the tax expenditures was far more nebulous but because taxation is imposed at a later stage of the budgetary cycle, the degree of dialogue between individual Departments and the Department of Finance on those issues was somewhat limited. In the budget I announced in December 2009, I insisted that there would be a process whereby Departments would be compelled to justify the tax expenditures as if they were ordinary voted expenditure. I was quite struck by the paucity of response. It enabled me to eliminate quite a number of tax reliefs in the budget because of the inadequacy of any departmental response in defence of tax expenditures which had been axiomatically defended every year in the weeks leading up to the presentation of the budget.

12 o'clock Senator Bradford made the point that this is an area where our budgetary system needs to be improved. First and foremost, we need to understand that when one provides a tax relief, it is a form of expenditure. That is why it is called tax expenditure. The actual budgetary process within the Administration has to reflect that far more so that, in effect, tax expenditures have to be included with the routine Estimates process, justified and stood over.

There have been far more cost benefit analyses and economic impact assessments in recent years than used to take place, but they also must form part of the process.

Although we see this type of impact assessment going on all the time for actual expenditure, we have not seen it as much for tax expenditures until recent years. However, we had the Indecon report on property tax expenditures and the bulk of these were eliminated. The argu-

[Deputy Brian Lenihan.]

ment about section 23 reliefs and capital allowances is not about the merits of the particular expenditures. It is about their phasing out, the timescale for their phasing out and the economic impact and elimination of these reliefs.

Senators may reflect on and discuss different tax expenditures and there has been a strong focus on the property area. There is no doubt that some of the tax expenditures were misplaced. I do not say it out of partisanship but the previous rainbow Government introduced the seaside village incentive while Deputy Kenny was Minister with responsibility for tourism. Everyone can see throughout seaside Ireland great numbers of empty properties many years later. Clearly, that was not a correct decision. Equally, I remarked yesterday that I was surprised to learn—

Senator Liam Twomey: Who has been in place for the past 14 years?

Deputy Brian Lenihan: It is important that we understand—

Senator Liam Twomey: I want to make it clear that the Minister's Government has allowed an expansion of—

Deputy Brian Lenihan: Deputy Martin made an apology. Let us see whether Deputy Kenny is willing to make an apology for that scheme.

Senator Liam Twomey: Must he apologise for the Government decisions of the past 14 years?

Deputy Brian Lenihan: He was directly involved.

Senator Liam Twomey: The Minister should listen to what he is saying. He is suggesting Deputy Kenny should apologise for the Government's behaviour of the past 14 years.

An Leas-Chathaoirleach: The Minister, without interruption.

Senator Liam Twomey: The Minister is moving to the Opposition benches a little too quickly.

An Leas-Chathaoirleach: Senator Twomey, please. The Minister, without interruption.

Deputy Brian Lenihan: Deputy Kenny has become so shy of the media that it is unlikely we will see him making this apology.

Senator Paudie Coffey: The Minister's party will be a little shy themselves after next month because there will be so few of them left.

An Leas-Chathaoirleach: Minister, we are on the recommendation. Senator Twomey, can we have the Minister without interruption?

Deputy Brian Lenihan: Tourism is important and the hotel reliefs have caused difficulties, but they have also ensured we now have a sizable modern hotel stock and it is difficult to see how direct State investment could have procured that stock.

Let us consider where we can achieve growth in the coming years. One crucial area for growth and jobs will be tourism. It will be vital if we are to lift domestic demand from the doldrums. We know the large volume of bank debt is weighing heavily not only on the State and the banking system but on thousands of small businesses throughout Ireland. This weight of debt means the expansion of domestic demand and the stimulation of more consumer activity

is difficult. One obvious substitute for this would be an increase in the volume of tourism and visitors to the country who would spend money and increase the volume of domestic demand.

We took important initiatives in this budget to secure that objective through the relaxation of the air travel tax and we took important initiatives on the minimum wage. I note Deputy Noonan has returned from Brussels and has announced that Fine Gael will reverse the minimum wage decision. I would like to ask Deputy Noonan one question, although perhaps I should ask it outside the House under the conventions. Did he discuss that issue with President Barroso yesterday? He says he is free to change it. When we discuss the question of tourism, we should note that we have this infrastructure in place and it is something that can be built upon and developed. I challenge any Senator to establish how else it could have been established. Certainly, it could not have been established by direct State investment or by setting up a State hotel company.

As Senators have noted, from time to time issues arise about particular tax reliefs. A case was made by several Senators in the health care area. I do not prejudge the issue and it is not in this budget but were one to introduce a tax relief for primary medical care centres, it would be a property-based tax relief.

Senator Paudie Coffey: There are social and health benefits to it.

Deputy Brian Lenihan: Let us be clear about what we are doing. We all maintain property-based tax reliefs are wrong. Then we turn around and suggest a new one. We must be consistent and we must make up our minds. I agree that a cost benefit analysis is of great benefit in deciding on these matters and it may be desirable as an aspect of national health policy. One would examine what it would cost for the State to establish this infrastructure, how important the infrastructure is and how much it would cost the State to subsidise the medical profession to do it. These are the kinds of factors which a proper cost benefit analysis must evaluate in considering any such expenditure.

I welcome the debate, the tone of which was sound, and most Senators were correct. For various reasons I am not supporting the recommendation, primarily because there are a limited number of tax expenditures in the budget and on which we are conducting a cost benefit analysis. There are technical defects in the recommendation but I do not take my stand based on this. This is my attitude to the recommendation. The general points raised in the debate are good and worthy of consideration.

An Leas-Chathaoirleach: Is the recommendation being pressed?

Senator Alex White: Yes. May I respond?

An Leas-Chathaoirleach: Yes, briefly. I remind the Senator to be conscious of the timeframe.

Senator Alex White: I am conscious of the time and I will not detain the House too long but I wish to respond briefly. This recommendation was never about and does not include within it anywhere an attack on reliefs. That is not in it. We could have a debate about the reliefs and their merits. However, the Members opposite fell into a trap which is not in the recommendation. It was never an attack on the reliefs. This is about cost benefit analysis, changing the way we view these matters and having an intelligent scepticism about all the reliefs. That includes the relief to which Senator Bradford referred earlier, of which I would be rather sceptical and on which we held a debate previously under other legislation. That is a matter for another day. The question is the sort of system we should have not only in here among ourselves and in the Department but also such that the public can participate in understanding

[Senator Alex White.]

that we are discussing revenue forgone to the Exchequer which could be used for other things. These are taxes the Exchequer would get otherwise.

Senator Donie Cassidy: That is not it.

Senator Alex White: The Senator is still falling into the trap.

Senator Donie Cassidy: Senator White raised the tax issue.

An Leas-Chathaoirleach: Senator White, without interruption.

Senator Alex White: I love this because it simply makes my point.

Senator Donie Cassidy: He is not listening.

Senator Alex White: Everything that has been said by the other side, especially by Senator Cassidy, fortifies my view about the necessity for such a procedure.

Senator David Norris: Hear, hear.

Senator Alex White: For all his intelligence and expertise, I will not take it from Senator Cassidy that these things are good things. Even he must agree there must be limits. Senator Daly agrees. Perhaps I was a little harsh on Senator Daly on the technical issue of a one month period. I did not appreciate fully what he was saying.

Senator Mark Daly: That is fine. Senator White is forgiven.

Senator Alex White: It ought to have been a three month period and I would be satisfied to concede an amendment if the Minister wished to bring it forward to the effect that it should be done in three months rather than one.

I wish to make some other points briefly. I believe I am entitled to do so since I moved the recommendation. This goes to the heart of our politics and how we debate these things. Naturally, many people have availed of reliefs who are not wealthy property developers, including nurses and the lower earners to which Senator Mooney referred. That is an important point to which we must be sensitive. We must realise that people could end up having their income greatly reduced and the State must take a view on how that must be done. I understand and appreciate that. I admit that people have come to me about it as well. That is not the point. What do we want to do in terms of how we structure our taxation system? How do we use the taxation system in limited ways to promote economic growth? The whole community must participate in this debate. The fact that people would be affected by a change is naturally hurtful and potentially damaging to them.

I hate the phrase “back to basics” but we must go back to the start and hold an intelligent public debate about these schemes and expenditures. The way in which we facilitate this is simply by having the information available and having an expert assessment and an intelligent scepticism applied to every scheme proposed. I welcome the Minister’s remarks on the two schemes he identified in the Bill. It should be in legislation and not simply on the instruction of a Minister that an analysis would be published about a particular relief. It should be in legislation that this is the way we do business. There should always be a cost benefit analysis available to the public such that it can participate in the debate, however limited it might be given the technicalities. At least the public would have some participation in the debate such that everyone has a stake in what is being done on their behalf in respect of the taxation system.

Senator Walsh should note that this is not about the Labour Party looking to try to extract more taxes. This is about trying to ensure that, generally speaking, people pay their taxes and we limit the opportunities for people not to pay tax. Let us face it: that is what a tax expenditure scheme is. It amounts to not having to pay tax that one would have to pay otherwise. If there is a public dividend, whether it affects houses along the Shannon, in inner cities or seaside houses, it should be balanced against the relief. A decision must be made on it for the common good rather than reducing the debate to the undoubted hardship that affects individuals when faced with the reduction or removal of some of these schemes.

Senator Donie Cassidy: I want to put the record straight.

Senator Joe O'Toole: On a point of order. I do not wish to be unmannerly but I am conscious of time. The proposer has responded so the recommendation should be put now.

An Leas-Chathaoirleach: That does not apply on Committee Stage.

Senator Donie Cassidy: We are on Committee Stage. To respond to the claim that everyone should pay their fair share——

An Leas-Chathaoirleach: In fairness, Senator Cassidy, the Minister has responded to this as well.

Senator Donie Cassidy: Yes, I accept the thrust of what the Minister said. I thank him for his response and his understanding of the capital allowance relief.

In response to Senator Alex White, I agree everyone should pay their fair share of taxes. Investors, however, are paying their taxes in advance. Up to 40% of the tax owed on products covered by such reliefs, such as health care or tourism products, is paid in advance. The priority of whoever goes into government after the general election will have to be jobs. In both of these sectors——

An Leas-Chathaoirleach: Senator Cassidy has made his case well.

Senator David Norris: Come on.

Senator Donie Cassidy: I will be brief. It is in the health and tourism sectors that sustainable jobs are really being created.

Senators: This is a Second Stage speech.

An Leas-Chathaoirleach: The Senator is not really addressing the recommendation. We must move on.

Recommendation put:

The Committee divided: Tá, 24; Níl, 29.

Tá

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

Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.

Tá—*continued*

Phelan, John Paul.
Prendergast, Phil.
Quinn, Feargal.
Regan, Eugene.

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

Níl

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

Keaveney, Cecilia.
Leyden, Terry.
McDonald, Lisa.
Mooney, Paschal.
Ó Brocháin, Niall.
Ó Domhnall, Brian.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Dominic Hannigan and Alex White; Níl, Senators Camillus Glynn and Diarmuid Wilson.

Recommendation declared lost.

Progress reported; Committee to sit again.

Business of Seanad

Senator Donie Cassidy: I take this opportunity to welcome Deputy Flynn and her family, who are in the Visitors Gallery, to the House.

I wish to propose an amendment to the Order of Business that the Seanad's deliberations on Parts 1 to 3, inclusive, be concluded by 1.30 p.m.

An Cathaoirleach: Is that agreed? Agreed.

Finance Bill 2011 [Certified Money Bill]: Committee Stage (Resumed)

NEW SECTION

Senator Alex White: I move recommendation No. 2:

In page 7, before section 1, to insert the following new section:

“PART 1

PUBLICATION OF CERTAIN BONUSES

1.—Each credit institution that is participating in the eligible liabilities guarantee scheme shall be required, within 30 days of the passing of this Act, to submit to Dáil Éireann details of the names of all of its officers, employees or contractors to whom bonuses have been paid between 30 September 2008 and the date of passing of this Act, and the amount of the bonuses in each case.”.

I formally move the recommendation and ask the Minister to address it. I reserve my right to come back in.

An Cathaoirleach: The Senator has that right on Committee Stage.

Senator Dan Boyle: Is it open to others to speak?

An Cathaoirleach: Yes, there is no problem in that regard.

Minister for Finance (Deputy Brian Lenihan): On Report Stage in the other House an amendment was introduced to provide for an aggregate charge of 90% to be applied to bonuses paid by certain financial institutions to their staff. The amendment applies a high rate of universal social charge to any payment in excess of regular salary made by a financial institution which has received financial investment from the State to any of its employees. The charge will also apply to benefits given in lieu of cash. The charge will be a universal social charge rate of 45% which, together with an income tax rate of 41% and a PRSI rate of 4%, gives an aggregate tax rate of 90% on these bonus payments. It will not be applied to bonuses to employees to whom no more than €20,000 in remuneration is awarded in a tax year. This is being done to reflect the remuneration packages available to some low to medium paid staff such as those working in call centres where there is a fixed basic salary supplemented by a performance related element which can make up as much as 50% to 60% of basic salary, rather like the insurance salesman of old. As such, this level of €20,000 is a reasonable measure to ensure such staff do not lose out.

On another point, I do not regard it as appropriate for the boards of State companies, commercial and non-commercial, to be approving bonus payments for their chief executive officers.

Senator Alex White: If the Minister might assist me, to what section of the Bill does this apply?

Deputy Brian Lenihan: It is an amendment to section 3 on the social charge.

Senator Alex White: I will come to that matter shortly. To remind the House, the recommendation calls for the making of a submission to Dáil Éireann within 30 days of the passing of the Bill; the same technical objection applies, although, to be fair, the Minister was not making too much of this in regard to the earlier recommendation. Nonetheless, given that there will be no Dáil in place in 30 days time, the period could certainly be varied. The recommendation reads: “Each credit institution that is participating in the eligible liabilities guarantee scheme shall be required ... to submit to Dáil Éireann details of the names of all of its officers, employees or contractors to whom bonuses have been paid between 30 September 2008 and the date of passing of this Act, and the amount of the bonuses in each case”.

Deputy Brian Lenihan: It is not really a finance Act recommendation.

Senator Alex White: The Minister did not say that when I asked him to address the matter.

Deputy Brian Lenihan: No, but having considered it, I say so now.

Senator Alex White: The purpose of my asking the Minister to address the recommendation was to see what his attitude towards it was. I note the amendment to the Bill he introduced in the Dáil which we can perhaps consider in due course. The recommendation is somewhat narrower, as the Minister will acknowledge.

Deputy Brian Lenihan: Yes, it is.

Senator Alex White: It has to do with the submission of details of bonuses paid. There has been a problem in that regard and the Minister has expressed his own frustration.

Deputy Brian Lenihan: I will reply.

Senator Alex White: Very good. His frustration is shared by the public, given the apparent inability, even of the Minister, to obtain details. However, we must accept what he tells us, as always. In regard to Bank of Ireland, for example, details of bonuses paid may have been withheld from him or at least not made available to him, as they should have been, in a timely manner.

It is a little like our earlier discussion. There is the substantive issue of bonuses and the fact that they have had such a corrosive effect on how the banking system operated and, ultimately, almost collapsed, not just in this country but also overseas. There is a huge debate about the excessive bonuses paid and the reckless lending engaged in by those who were able to earn these bonuses. However, we do not even have to have that debate on bonuses and their corrosive effect. All I seek in the recommendation is that the details of the names of all of the officers, employees or contractors to whom bonuses have been paid in the institutions covered by the eligible liabilities guarantee scheme be submitted to Dáil Éireann.

On reflecting on the recommendation at this relatively late stage of the discussion on the Bill, the issue of a 30 day period arises. The Minister said not so much that it was onerous, but that it might not be appropriate that details of every single bonus paid, right down to the man or woman earning €20,000 to €30,000 a year, would be required to be submitted. However, it seems not unreasonable in the case of bonuses paid above a particular level, where the liabilities are being guaranteed, where there is an enormous commitment on the part of the State to the institutions concerned and where the Government has stated it was unhappy with the level of bonuses paid and accepts there was a complete lack of reality in this regard, if that is not putting too mildly. It seems there is still an insistence on the part of many institutions to maintain this crazy culture of paying excessive bonuses. All we are doing is seeking to ascertain whether we can get hold of this issue by way of the information being communicated to Dáil Éireann. It is the State and its Parliament, the Oireachtas, that are guaranteeing these institutions and doing so much to revive and keep them alive — perhaps too much in the case of one or two of them. While we need to take steps to ensure we will have a banking system, the bonus culture is definitely at the heart of what has gone wrong. All we are looking for is information to be communicated on the level of bonuses paid across the board.

Acting Chairman (Senator Cecilia Keaveney): A number of Senators are offering. Does the Minister wish to hear them before he comes in?

Deputy Brian Lenihan: My initial reply to the Senator reflected an understandable view in my Department in placing the issue in the context of the finance Bill. It simply outlined what was being done about bank bonuses in the Bill. I cannot accept the recommendation because it has nothing to do with the Bill. In, fact, its acceptance might even compromise the status of the Bill as a Money Bill, although I do not say that with certainty. The recommendation as proposed does not concern taxation or the raising of money but the credit institutions participating in the eligible liabilities guarantee scheme; it is not, therefore, an amendment to the finance Bill or a matter that arises from it. The official reply dealt with how we were dealing with the bank bonuses issue in the context of taxation. Clearly, this does not involve the appropriation of money or taxation but a view, on which the Senator is anxious to make a recommendation, of how credit institutions should pay bonuses. That is the net issue. Therefore, I

maintain it is entirely outside the scope of the Bill. There would be a risk it would cease to be a Money Bill were I to accept the recommendation.

That said, on the merits of recommendation, let us be clear that the Government has a very solid record in dealing with the payment of bonuses. Let us move away from the headlines and see what actually has been done. First, as soon as the guarantee was introduced, all future bonuses were outlawed in the eligible guaranteed institutions. No guaranteed institution has been permitted to pay a bonus in 2009, 2010 or 2011. Clearly, the prospective tax measure in this Bill will copperfasten that position with regard to those that have been capitalised.

Second, difficulties have arisen but they are, by and large, of a transitional character. They relate to commitments to pay bonuses which were made before the beginning of the guarantee and they have had to be worked out in that way. As Senator Alex White and others are generally aware, retrospective legislation and the retrospective expropriation of individual rights is a difficult subject. It is very difficult to take away from people a right to which they can point by way of definite contractual entitlement and tell them they are not entitled to that. We were able in the context of Allied Irish Banks, for example, because a recapitalisation was imminent, to provide that certain bonuses that were payable did not become payable because the State supervened by insisting, in the context of the capitalisation, that these bonuses could not be paid. That meant the directors were able to invoke the legal doctrine of the supervening event, the *novus actus interveniens*, to justify what would otherwise have been a breach of duty on the part of the directors. That is a very extreme example of how far we had to extend the law to ensure that bonuses would not be paid.

That happened in the context of Allied Irish Banks. In the case of Bank of Ireland, there is an investigation underway. Some concern has been expressed about the delay in the investigation. Again, it relates to an ascertained class of bonuses. It is a serious matter that Bank of Ireland had to apologise to me and to the Dáil for misleading the House in information supplied to my Department. That apology is on record. The reason the investigation is taking some time to complete is that there was a subscription agreement with Bank of Ireland, as there was with Allied Irish Banks, at the time of the initial capitalisation in early 2009. That subscription agreement contained definite contract terms regarding which bonuses could and could not be paid. Again, there was the issue of what past obligations had to be honoured by the bank. A due diligence was performed at the time by the NTMA with regard to all these matters. We have had to retrace the due diligence and all the documentation relating to each bonus and that investigation is approaching completion.

Senator Dan Boyle: I accept what the Minister says about the drafting of this recommendation. However, the effect of what it is trying to achieve is what already exists in company law for publicly listed companies, that the payment of bonuses for directors, in particular, must be part of the annual reporting process. Now that many of these institutions are State institutions there should be something in our legislation that requires the payment of such additional moneys to be made publicly known, and not only the amounts that are paid but also the reasons such payments are given.

Much of the public frustration that currently exists is due to the existence of bonuses or the suggestion that they be paid in a time of obvious managerial crisis in many of these institutions. If the Minister is correct about the effect on this being a money Bill, perhaps there will be an opportunity on Report Stage, given that we are discussing it on Committee Stage, for an appropriate recommendation to be considered in the context of section 3 of the Bill, where the welcome changes regarding the universal service charge, USC, and the 45% rate added to the 41% rate and the 4% rate of PRSI achieve the 90% clawback on bonuses if paid, could also contain a declaration that people who come under this category should be publicly named as

[Senator Dan Boyle.]

being part of the institutions that are covered by the eligible liability guarantee scheme. Such a measure would go a long way towards restoring public confidence which is badly lacking in this area.

Senator Fiona O'Malley: I had intended speaking on this recommendation but the Minister highlighted a good point. However, as Senator Boyle pointed out, if this provision is in law elsewhere, why can it not be applicable here? If it is part of company law, what is stopping the banks from having to list bonuses that are to be paid?

Senator Joe O'Toole: First, I do not believe it is in company law and, if it is, the relevant section in the 2003 Act has not been commenced. There is much merit in this recommendation. Despite the fact that the Minister said it might not be relevant, I noticed he took the opportunity in his speech on Second Stage yesterday to make a passing reference to his relationship to the bonus scheme. He can hardly blame Senator Alex White for raising an issue which the Minister considered sufficiently important to raise in his speech or in The Irish Times article yesterday. I also recall the Minister discussing this in the Lower House as well.

This issue is hugely important. Senator Alex White has pointed to changes that should perhaps be made in the recommendation if he were to re-draft it. I do not agree with the Minister's statement that this Government has a good record on bonuses. It does not. The Minister can begin with his Department or any State Department. The bonus system in the Departments has been brought into disrepute and every review of higher remuneration since the introduction of the bonus scheme in 1995 has been unhappy with it. The reason is——

Deputy Brian Lenihan: That system has been abolished.

Senator Joe O'Toole: Let me talk about abolishing it. That is a little like the Minister's response to the last recommendation. Nobody is saying all property tax reliefs are bad.

Bonus schemes are good, but badly implemented bonus schemes are bad. That is the problem. It is not just the bonus scheme but the points that were dealt with by Senator Boyle. Incidentally, I have raised this with at least half the Cabinet over the past five years. I have asked each Minister if he or she has been privy to or involved in the determination of the bonuses for the assistant secretaries in their Departments. I will not embarrass the Minister with the answers. I have also met Ministers who thought they saw the bonus scheme but I know what they saw. It was the outline scheme on which the bonus scheme is based.

The bonus scheme is very clear, and that is the reason it is very good. Before the year begins, stretched objectives are determined. These are not the objectives that already exist but objectives that are above and beyond one's normal day's work. These stretched objectives are written down and agreed. Next, an absolute weighting is put on the objectives, that is, what one gets if one achieves each one. Now the customer knows what is to be achieved and what he or she will get if he or she manages to achieve them. How will we know he or she will achieve them? There are the key performance indicators, KPIs. One looks at these at least twice in the course of the year and at the end of the year one makes the assessment. That assessment is written down and on that basis one decides on the quantum or amount of the bonus. It is not just the figure but how the figure was achieved and set up.

I have sat, and still sit, on a number of remuneration committees. One of the bonuses with which I was involved managed to get front page coverage on the *Irish Independent* recently. It was for a very hard working chief executive of a semi-State body. The bonuses attached to that position ran to 20 A4 pages in terms of the structure. I believe we should have explained to the public what can be achieved by bonuses, culminating in the point outlined by Senator Alex

White whereby we point out that the person was given a certain amount. One of the big changes the Minister will have noticed in the debate on bank bonuses, particularly in the UK, Europe and the US, is that we are now working on the basis that where bonuses are being paid in well-run banks, they are only paid long after the event. In other words, it is not based on the performance this year but perhaps next year or the year after and there is a continuing gain.

If bonus schemes are properly implemented, they are a good thing. At present, they are in a haze of ignorance. People know nothing about them other than the amount. There should be openness not just on the amount, but on how it was achieved. I ask the Minister to reconsider that position in terms of where it works. People are annoyed because they do not know why the recipients are being paid and the money appears to be too high. Generally, it is too high. However, if we are running the banks, and regardless of whether the amendment is acceptable as part of the Finance Bill, it would be useful to hear from the Minister that there will be openness and transparency in the method of determination, the outline of the objectives, the weighting, assessment, the key performance indicators and the quantum given at the end, so people have a full understanding of it.

Senator Rónán Mullen: I listened with interest to what Senator O'Toole had to say. The point on which we all agree is that there needs to be clarity about the bonuses people are getting, the precise mechanism by which they get their bonuses and what is required for them to get the bonuses.

Senator White is right to bring forward this recommendation, but there are certain problems with it. I tend to agree with the Minister that it does not seem to be the place for it, although I note that the relevant constitutional section on a money Bill provides for the inclusion of matters subordinate and incidental to those matters at any time. Therefore, the Minister was probably right in expressing a degree of caution as to whether such a recommendation would change the status of this as a money Bill.

The recommendation essentially reflects public disquiet, to the say the least, at the payment of bonuses to officials and employees of banks who manifestly did not deserve them, and who have done damage to the public. This is a recommendation that effectively seeks to provide for some kind of reporting exercise. Dating it back to September 2008 raises issues of retrospectivity as well. These are not necessarily serious issues, but it is designed to reflect public concern. I would like to see the substance of this recommendation in the legislation, but I am not sure this is the place for it.

Deputy Brian Lenihan: I was not giving Senator White an opinion on whether it affected the money Bill issue, but I do not think we can risk that issue at this stage of the proceedings.

Senator Alex White: I will consider the matter between now and Report Stage.

Recommendation, by leave, withdrawn.

Recommendation No. 3 not moved.

Question, “That section 1 stand part of the Bill,” put and declared carried.

NEW SECTION

Senator Ciaran Cannon: I move recommendation No. 4:

In page 7, before section 2, but in Chapter 2, to insert the following new section:

[Senator Ciaran Cannon.]

2.—The Principal Act is amended in section 531A(1) by substituting the following for the definition of “aggregate income”:

“aggregate income for the year of assessment”, in relation to an individual and a year of assessment, means the aggregate of the individual’s relevant emoluments in the year of assessment, including relevant emoluments that are paid in whole or in part for a year of assessment other than the year of assessment during which the payment is made, and relevant income for the year of assessment, but excluding any amounts paid by an employer under section 787E(1) and section 787E(2);”.

With respect, I would like the Minister to respond as he did to Senator White earlier, and I reserve the right to comment afterwards.

Deputy Brian Lenihan: The proposal made by Senator Cannon appears to reflect a proposed change to the income levy that section 2 of the Bill proposes to abolish, rather than the universal social charge that is replacing it. However, the proposed recommendation appears to seek to grant relief from the charge in respect of payments to a personal retirement savings account made by an employer. An employer’s contribution to an employee’s PRSA is treated as a benefit in kind for income tax purposes. The employee is then entitled to claim personal tax relief, subject to the relevant ceilings, in respect of that contribution, as if he or she had made a personal contribution. In effect, this means that no additional income tax charge arises in respect of the employer’s contribution, provided the relevant ceiling is not breached. For USC purposes, the individual’s aggregate income from all sources is subject to the charge without relief for pension contributions. This includes such items as employer’s contributions to PRSA, which are treated for income tax purposes as the income of the individual.

Were I to concede to Senator Cannon’s suggestion, this would result in a position where an employee could benefit from an employer contribution to the PRSA by not paying USC on the amount of that contribution. This would occur even though the PRSA is treated as the employee’s personal income, but an employee who is unable to get his or her employer to contribute to his or her PRSA, and instead personally makes contributions of the same amount from his or her own resources, would suffer the USC charge. I cannot accept that this is equitable.

The whole question of relief for pension contributions, including PRSA contributions, is being examined by my Department in the context of the national recovery plan and the Government’s objective to raise €700 million from the pension sector over the period of the plan. In my view, a change in this area would be inappropriate. The plan indicates that the Government is willing to engage with the industry to examine alternatives to deliver the outcome. This invitation extends to this issue as well.

I must regret the insistence of the Fine Gael Party, the Labour Party and latterly, the Green Party on the fast-tracking of this Bill.

Senator Mary M. White: Hear, hear.

Deputy Brian Lenihan: I had hoped that as Minister, in reflecting on amendments, I could have had a considered discussion with the pensions industry about how to structure the contribution that the pension industry should make in the national plan. We have had to stick to the original proposals because we have not had an opportunity to have an adequate dialogue with pensions industry representatives about how they could be revised. There was no question of departing from the target figure of €700 million, but I indicated on budget day that I was open

to discussions which would secure the same money in an alternative way. This issue can be considered in such discussions, and I would urge that whoever takes power in the next Government, to look at that engagement quickly so that there can be a discussion with the industry about the implications of these proposals.

The reality in every budget is that governments often formulate proposals as an initial bid. If we do not have an initial bid, we will not make progress on the issues. There should be further discussion on this, but at this stage the measure must be adopted as it stands.

Senator Ciaran Cannon: Has the Minister conceded that the imposition of the USC on the employer's contribution is inequitable? Did I hear him correctly?

Deputy Brian Lenihan: No. What is inequitable is that this House and the other House did not have an adequate opportunity to consider the Finance Bill 2011. This is a minority Government. We were compelled to enact this legislation in a very short period of time. I would have much preferred to consult further about this matter. I am not indicating that it is inequitable, but that I was open to persuasion on this issue, were other alternative sources of finance identified by the industry.

Senator Ciaran Cannon: I would just like to outline the context behind this amendment. These PRSAs were introduced in 2003 by the Pensions Board in an attempt to increase pension coverage across the whole working population. The idea was the lower paid and the self-employed would start making some provision for their pensions. The intention also was for PRSAs to supplement the State pension and to avert what many of us believe will be a major crisis in pension provision for many years to come.

This is an inequitable imposition upon a certain sector of the working population. Employees in other pension schemes are currently not taxed on any contributions that their employer puts into the pension plan. This recommendation seeks to correct what I believe was simply an error

I o'clock of omission. I do not believe this was deliberately done either by the officials or by the Minister during the drafting of the Bill. I cannot believe that such an unfair

imposition was made upon a certain sector of the working population. Anybody who has been out canvassing on the doorsteps in the past few weeks will have been told of the horror people experienced when they opened their paychecks to find the serious chunk taken out of their pay by this new universal social charge. However, one cannot imagine the horror that people experience when they open their paycheck to discover that not only has the USC been applied to their pay, but also to any pension contribution that their employer is making on their behalf.

I agree with the Minister to some extent that this Bill has been rushed through the Seanad and the Dáil. I also recognise that we are living in extraordinary times and that we need to limit pension tax relief. However, this is a simple anomaly that unfairly singles out PRSA pension scheme members for an extra tax charge that their colleagues in traditional pension systems simply do not have to pay. The PRSA regime was introduced as a simple, transparent and portable pension arrangement for the lower paid. They are not used by high earners. We are talking about the self-employed and lower earners being hit unfairly in this situation.

I am informed by senior people in the pensions industry that removing this inequity simply requires a one or two line amendment to the Act. If it cannot be done now, over the coming months and perhaps even for a year, this universal social charge will be imposed unfairly and inequitably on PRSA contributions made by employers on behalf of their employees. It is unfair and unjust. I am informed that it is easily rectified, and I ask the Minister to accept that.

Senator David Norris: I strongly support Senator Cannon on this issue. It is unlikely the Minister will accept this recommendation because there are political aspects to it but at least this debate will signal to the incoming Government that this must be done in the Finance (No. 2) Bill. It unfairly singles out particular pension contributors and triggers them into this position simply because their employers make a contribution. That is obviously unfair. It revolts reason and any sense of equity.

I have a briefing all of which I will not put on the record because we want to get on to other matters and the timescale is short but it can be done simply. It requires very little in terms of tweaking and would have no further knock-on effect on other legislation. Those are all good reasons, and I strongly support Senator Cannon.

The principle here is in absolute agreement with a later recommendation of mine which is related but which we may not reach today, that is, it looks after people who come in at or under the minimum requirements for the State's old age pension. To impose this full charge would be iniquitous.

I read the Minister's speech. I did not see any reference to it in the Seanad but I understand this proposal may have had some tweaking in the other House. I would be interested if the Minister could tell me, perhaps privately later or whatever, if that is the case or could indicate to me now. I will be putting my amendment on this matter before the House on Report Stage.

Senator Alex White: There is a great deal of merit in what Senator Cannon said, and I support him on it. I want to note my formal opposition to section 2 but what Senator Cannon is proposing by way of his recommendation has enormous merit.

I was curious to hear one aspect of the Minister's response. He said it was a function of the fact that the Opposition parties and others were insisting on the Finance Bill being dealt with by this weekend. The Minister could spend all day telling us about what he would have done if he had more time. As I understood his remarks he said he was sorry he did not have an opportunity in this Bill to introduce wholesale reforms of the treatment of pensions and so on in regard to the tax code. I am sure there are many things the Minister would have liked to have done but he cannot visit that on the parties in the Seanad or the Dáil for wanting to see this legislation through and then say there are ten, 15 or 20 things he would have liked to have done. They are not in the Bill. The budget was in December. The Bill was published on 20 January. None of the decisions on truncating the debate were made before 20 January. In terms of anything the Minister wanted to do in the Finance Bill, he had every opportunity to put them into the Bill but they are not in the Bill of 20 January, which is when it was published.

Senator Eoghan Harris: I welcome the change in the universal social charge. Fortunately, I do not have to go for election and therefore I can speak for a group that does not have a big populist push behind it. I refer to sole traders. The reduction for medical card holders is reasonable but the increased 10% for the self-employed and sole traders on incomes over €100,000 is unfair because they are the group with impaired loans that they are finding difficult to pay back. For example, they must pay back capital on after tax income which means they have only 45% left for repayment. Based on that it would take a small business nearly €220,000 to pay back a capital loan of €100,000.

Small business does not need any more tax burdens. I do not know if the European Union will allow it. The Germans are trying to interfere with such changes but with the foreign investment sector, these sole traders are the engine that will power our recovery and everything that can be done to make life a little easier for them should be done.

Senator Joe O'Toole: For the past 15 years Europe has been trying to deal with the issue of pension liability in every estate. There has not been a year in the past 15 in which we have not examined it. Its importance was acknowledged by the Minister's own party in Government with the establishment of the National Pensions Reserve Fund to deal with these issues. It was also acknowledged by bringing in schemes to encourage employers and employees to set up pension schemes. There has been a European demand for portability which has been ignored effectively because portability does not exist, although we are moving more closely to it.

In terms of this section, the Minister cannot deny that it is a disincentive. The Minister appears to be uncomfortable with it also and that this has happened not in the way he precisely planned it but that is what the Seanad is about. The Seanad exists to have a second look at legislation.

Without getting involved in the debate about the rush to get the Bill through the House, I stated here last week and earlier that I do not like rushing legislation through the House but we can deal with this issue now, and all for the sake of calling back the Dáil tonight for ten minutes. A word will not be said against it anywhere.

There are two or three recommendations tabled about which it would be good from the Minister's point of view to acknowledge that they had merit. That would support the Minister's public position. He has said many times that it is in the course of debate in the Dáil and Seanad that issues emerge. He insisted that the Seanad would not meet until the weekend to allow him time to digest the issues that came up in the Dáil. We are here now. It would prove the Minister's point.

Senator Fiona O'Malley: Exactly.

Senator Joe O'Toole: Effectively, he would be saying "I told you so" to people in that this is an example of an issue which will create problems, is a disincentive to Government policy and to European policy and we have, within our grasp, the opportunity of dealing with the problem in a way which meets everybody's requirements. It is a cross-party position. Everybody would agree with it. We all agree the merits of the recommendation; let us put that aside for the moment. We are now talking about the way we do it. The Minister has conceded the point in terms of what he would like to do. I urge him just to do it.

Senator Feargal Quinn: I voice my support for what Senator O'Toole stated but particularly for what Senator Harris stated. For years we have encouraged people to plan for their retirement and their pension and now we are creating a disincentive, to quote the word used by Senator O'Toole, to what we as a State should be encouraging people to do. It is not the only one. There are other instances in the Bill where that arises.

As Senator Harris stated, it is very difficult to support somebody who is a sole trader, self-employed or someone earning €100,000 and then to discover they are paying interest and all the other expenses to do so yet, under another part of this Bill, we will force them to pay tax on 5% of their pension as though they were withdrawing it each year.

All of what has been done in the Bill is not taking into account, and I believe the Minister has said also, the urgency required to create more jobs, encourage small and medium businesses to succeed, and for people to set up businesses. If we are making it such a disadvantage at this stage, certainly for people to start a business, be a sole trader or become self-employed, we are working in the wrong way. We can do much more in this area. The Minister's heart is in the right place. It seems a shame that we have not been able to give it the attention it deserves. I support Senator Cannon's recommendation.

Senator Fiona O'Malley: I have listened to what other Senators, particularly Senator O'Toole, have said. When something is pointed out to the Minister does he not have a duty to remove an anomaly? As Senator O'Toole said, it is the reason we are here. It is the reason we are going through the Bill. Certainly, it should be considered.

I also echo the sentiments Senators Harris and Quinn expressed about sole traders. We need to keep the tax burden low. I will always have that mantra. I do not subscribe to high taxation.

The reason we are here today is to go through the Bill. So be it if the Dáil must come back to make an amendment. There seems to be a duty on the Minister to accept this recommendation.

Deputy Brian Lenihan: I do not accept there is any duty to accept that recommendation and I never conceded that in the debate. On the merits of the recommendation, the position is that the PRSA contribution is fully taxed under the current income levy. As Senators will be aware, the social charge is a merger of the health contribution and the income levy. It is correct that the health contribution element of it was not taxed because that was levied on gross income but the income levy assessed it to taxation as a benefit-in-kind. It is not correct to say that this is a dramatic innovation in pensions. I accept it is an increase in taxation in so far as the health contribution element, fused now in the social charge, captures this income. That is the factual position.

I did not concede it was an anomaly. What I stated was that on this issue, along with all the issues on the treatment of the pension industry that I indicated in my budget speech, my position was I was open to amendment on all these issues and I would have liked a discussion with the pension industry about this.

The Fine Gael Party, the Labour Party or the Green Party did not recognise at any stage the proper timescale for a finance Bill implementing a budget. The priority has been to have a general election, not a finance Bill, and that is their, not my, decision. For example, normally I would spend a week going through the Finance Bill when the officials had the necessary draft ready for me. This year I was given a day to consider the Finance Bill. Last year I recall spending a week in total, over a four week period of separate sessions, considering in detail each section of the Bill. This year I only had a day to do it because the universal cry at that stage was to publish the Finance Bill. The Bill was published early to sate the demand for the exit of the Government.

I read editorials in many of the newspapers stating this Government has nothing to do and the Finance Bill can be passed in a day. We must learn from this episode that the Finance Bill cannot be passed in a day and the normal timescale, which would have been involved for many years, is that the Bill is enacted by the end of March. The Bill will not be enacted by the end of March this year. It will be enacted at the beginning of February.

The idea that the only consideration of the Bill takes place in the Dáil or the Seanad also is an illusion. The Bill is published and then there is a public response to that publication. The Bill was published on Friday week last. Normally, my Department would receive a considerable range of submissions, correspondence and representations about this. Likewise, Deputies and Senators would receive representations on an individual basis. My officials would have an opportunity to test these individual cases to see whether real anomalies were thrown up to see whether a particular exemption, proviso or qualification could address them. That opportunity has not been given because the headlong rush to have this general election has taken priority over the Finance Bill. Let us not delude ourselves into thinking that Seanad Éireann can solve this problem with a recommendation on a Saturday afternoon. I hope to discuss the constructive role of the Seanad in this Bill on Final Stage.

On the merits of the recommendation, I indicated that, along with the pension changes, this was an issue on which I would like to have had an opportunity to reflect. At the time of the plan, we had to identify that we would get a certain amount of revenue out of this sector and we put together a set of proposal with that end in view which we announced in the budget. We have not had the opportunity of refining this in the Finance Bill. Tax relief for pensions, the employer contribution, the employee tax relief in income tax, and the treatment of these in the levy system are all related. These issues could have been considered and should have been in a reflective way. That has not happened. There will have to be a finance (No. 2) Bill. I will arrange for my officials to have that necessary consultation with the interests involved and proceed on that basis.

The other question which was raised by Senators Harris and Quinn is an issue at the heart of tax policy. It is the question of marginal rates and how far one can push them. The specific issue raised by Senator Harris related to the treatment of the self-employed. By merging the health levy and the universal social charge, there was a reduction in the total income payable by all self-employed persons earning over €200,000. There was also a differential for those on between €100,000 and €200,000 in the impact of this year's measures. Hence, an amendment was introduced increasing the amount of the social charge for the duration of the four year plan for that group of taxpayers to put them in the same position as any other taxpayer.

That said, as a result of Government decisions and budgets adopted in recent years, marginal tax rates have slipped up beyond the 50% level. I have always believed that marginal tax rates should not exceed 50%. I have fought with might and main against it, but did so against a torrent of opposition, especially from the Labour Party and, of course, even more so from Sinn Féin which seems to believe there is a limitless pot of taxation and that taxation can be introduced and extended to 55%, 60%, 65% and 70%.

Senator Alex White: Nonsense.

Deputy Brian Lenihan: This was raised with me in social partnership.

Senator Alex White: Read the manifesto next week and see it.

Deputy Brian Lenihan: This issue was raised by me with social partners in social partnership negotiations——

Senator Alex White: The Minister is making it up now.

Deputy Brian Lenihan: ——who objected to pay cuts and who turned around and asked why I would not bring in a 65% income tax rate.

Senator Alex White: Was the Labour Party in social partnership? I do not remember that.

Deputy Brian Lenihan: These persons are all symbiotically linked.

Senator Alex White: That must be new. That is new to me, that nobody is invited to social partnership.

Deputy Brian Lenihan: I have the honour of representing a north-side Dublin constituency and when I pass Liberty Hall I see Kim Il-sung-type pictures of Deputy Gilmore on the building.

Senator Alex White: It was former Taoiseach, Deputy Bertie Ahern, who invited them all in.

Deputy Brian Lenihan: Please stop pretending to me that you are not symbiotically linked with all these people.

Senator Alex White: Do not offend Senator Harris now.

Deputy Brian Lenihan: I look forward seeing the Labour Party's manifesto.

Senator Alex White: The Minister will see it quickly. I wonder has Fianna Fáil one at all and who will write it.

An Cathaoirleach: Has Senator Alex White a point of order?

Deputy Brian Lenihan: I have the honour of having written the manifesto for the next four years for this country——

Senator Alex White: Agreed.

Deputy Brian Lenihan: —and Senator Alex White will depart from it at his peril. That is all I can tell him.

Senator Alex White: That is classic hubris. That is classic Fianna Fáil narrative.

Deputy Brian Lenihan: There is no question of hubris. There are modifications that can be introduced, but the broad direction of that manifesto in the national recovery plan is that two thirds of the adjustment must take place on the expenditure and one third on the taxation side. Although Fine Gael is maintaining that it can make an even bigger adjustment on the expenditure side, it will find it will be difficult to do that in office. On the other hand, the Labour Party is saying that half of the adjustment must take place on the taxation side and Sinn Féin is maintaining that two thirds of it can be done on the taxation side, which is an impossibility. It is a politically attractive impossibility——

Senator Alex White: The Minister has increased taxes considerably.

Deputy Brian Lenihan: —because it allows them engage in this endless politics of begrudging——

Senator Alex White: We have never had such tax increases as we have had from the Minister.

Deputy Brian Lenihan: —that there is someone else who has to pay.

An Cathaoirleach: The Minister is replying to the points raised. No interruption.

Senator Alex White: The Minister put the taxes up madly.

Deputy Brian Lenihan: There is always someone else who must pay.

Senator Alex White: Some €1.5 billion of tax increases.

Deputy Brian Lenihan: It allows Senator Alex White to go to the doorstep and state to the occupant that he or she is a poor man or woman who is being mercilessly treated by the last Government, that his party accepts all that it did and will not change the measures even though the party opposed them, but there is someone else who can pay in the future. There is not——

Senator Alex White: Read the document. Read the manifesto.

Deputy Brian Lenihan: —and that will not work as an economic policy for this country.

Senator Alex White: Will Fianna Fáil have a manifesto?

Senator Ciaran Cannon: As the Minister might expect, I am not happy with that response. TASC produced a report on the success or otherwise of PRSAs only a couple of weeks ago. It concluded that the scheme has not been successful and there has been a high dropout rate.

It was somewhat disconcerting to hear the Minister state earlier that — I apologise if I do not quote him accurately — sometimes a Minister for Finance prepares a finance Bill, throws it out into the ether and awaits a response from certain sectors of the industry in an auction-type process. This is not the way to prepare a finance Bill. There are 20 officials sitting in the ante-room to the Chamber who are assisting and aiding the Minister and I expect they have been closely involved in the preparation of the budget in recent months. It is strange that the consultation process with the pensions sector that would have identified this anomaly early on did not take place before the introduction of the Bill.

The Minister is a skilled orator, on which I congratulate him, but he often unintentionally tends to drift away from the core argument of a particular amendment. I will ask him two simple questions and would appreciate two straightforward answers. Does he believe the imposition of the universal service charge on the employer PRSA contribution to be unjust? A yes or no response would suffice. Second, if it is unjust, does he believe it can be amended by a short one or two-line amendment in this House today?

Deputy Brian Lenihan: First, all taxation involves an element of injustice in that it removes someone's income from him or her. I pointed out in respect of this——

Senator Ciaran Cannon: It would be helpful were the Minister simply to answer yes or no.

Deputy Brian Lenihan: I will not answer yes or no because——

Senator Ciaran Cannon: I thought he would not.

Deputy Brian Lenihan: ——Seanad Éireann does not consider legislation in a reflective way by simply answering yes or no to questions.

Senator Ciaran Cannon: That may be a pity.

Deputy Brian Lenihan: This House is not conducted like an opinion poll, as it is a deliberative assembly. My point is that, as far as there is an injustice, this income is already taxed by the income levy and the question is whether the imposition of the increased amount reflective of the health levy amounts to an injustice. We must raise this money and the question is whether — all must learn this lesson — there is a way to raise it from the pensions sector in a more equitable way. All I have said is that I am open to persuasion in that regard. Therefore, I would be open to an amendment were such discussions to eventuate in such an outcome.

The State has been obliged to move very rapidly to deal with a very severe crisis since last September. All I am saying is that it is not necessarily a good idea to have a general election in the middle of the crisis to sate the appetites of the political classes who read opinion polls every week or two. It would have been better for the country——

Senator Alex White: The Minister's party imploded. The Taoiseach was attacked from within.

An Cathaoirleach: No interruptions, please.

Deputy Brian Lenihan: Irrespective of——

Senator Alex White: The Taoiseach was challenged from within. The Minister should talk to Deputy Martin.

Deputy Brian Lenihan: ——who is in power or the personalities involved, it would have been better for the country had it been permitted for the first three months under the EU-IMF arrangement to provide for a continuity of government. In late November the Green Party decided on what was constitutionally an extraordinary position, whereby it, effectively, withdrew confidence from the Government but decided to remain in office to do certain things. There was an argument for a dissolution at that stage, but it was overwhelmed by the circumstances in which the country found itself. It needed continuity of government in those few months but did not get it. Those responsible for not giving it will be obliged to take the judgment of history on the issue.

Senator Alex White: Deputy Martin, perhaps, for moving against the Taoiseach.

An Cathaoirleach: No interruptions, please.

Deputy Brian Lenihan: My party certainly was prepared to ensure such stability.

Recommendation put:

The Committee divided: Tá, 25; Níl, 28.

Tá

Bacik, Ivana.	Mullen, Rónán.
Bradford, Paul.	Norris, David.
Burke, Paddy.	O'Reilly, Joe.
Buttimer, Jerry.	O'Toole, Joe.
Cannon, Ciaran.	Phelan, John Paul.
Coffey, Paudie.	Prendergast, Phil.
Cummins, Maurice.	Quinn, Feargal.
Donohoe, Paschal.	Regan, Eugene.
Fitzgerald, Frances.	Ross, Shane.
Hannigan, Dominic.	Ryan, Brendan.
Harris, Eoghan.	Twomey, Liam.
McCarthy, Michael.	White, Alex.
McFadden, Nicky.	

Níl

Boyle, Dan.	Keaveney, Cecilia.
Brady, Martin.	Leyden, Terry.
Butler, Larry.	McDonald, Lisa.
Callely, Ivor.	Mooney, Paschal.
Carroll, James.	Ó Brocháin, Niall.
Carty, John.	Ó Domhnaill, Brian.
Cassidy, Donie.	O'Brien, Francis.
Corrigan, Maria.	O'Donovan, Denis.
Daly, Mark.	O'Malley, Fiona.
Dearey, Mark.	O'Sullivan, Ned.
Ellis, John.	Ormonde, Ann.
Feeney, Geraldine.	Walsh, Jim.
Glynn, Camillus.	White, Mary M.
Hanafin, John.	Wilson, Diarmuid.

Tellers: Tá, Senators Ciaran Cannon and Maurice Cummins; Níl, Senators Camillus Glynn and Diarmuid Wilson.

Recommendation declared lost.

Question put: "That in respect of each of sections 2 to 61, inclusive, undisposed of, the section is hereby agreed to in Committee."

The Committee divided: Tá, 28; Níl, 24.

Tá

Boyle, Dan.	Harris, Eoghan.
Brady, Martin.	Keaveney, Cecilia.
Butler, Larry.	Leyden, Terry.
Callely, Ivor.	McDonald, Lisa.
Carroll, James.	Mooney, Paschal.
Carty, John.	Ó Brocháin, Niall.
Cassidy, Donie.	O'Brien, Francis.
Corrigan, Maria.	O'Donovan, Denis.
Daly, Mark.	O'Malley, Fiona.
Dearey, Mark.	O'Sullivan, Ned.
Ellis, John.	Ormonde, Ann.
Feeney, Geraldine.	Walsh, Jim.
Glynn, Camillus.	White, Mary M.
Hanafin, John.	Wilson, Diarmuid.

Níl

Bacik, Ivana.	Mullen, Rónán.
Bradford, Paul.	Norris, David.
Burke, Paddy.	O'Reilly, Joe.
Buttimer, Jerry.	O'Toole, Joe.
Cannon, Ciaran.	Phelan, John Paul.
Coffey, Paudie.	Prendergast, Phil.
Cummins, Maurice.	Quinn, Feargal.
Donohoe, Paschal.	Regan, Eugene.
Fitzgerald, Frances.	Ross, Shane.
Hannigan, Dominic.	Ryan, Brendan.
McCarthy, Michael.	Twomey, Liam.
McFadden, Nicky.	White, Alex.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Ciaran Cannon and Maurice Cummins.

Question declared carried.

Progress reported; Committee to sit again.

Business of Seanad

Senator Donie Cassidy: I wish to propose an amendment to the Order of Business. I propose we have a sos from now until 2.30 p.m. and that, with the agreement of the House, we will then take the remaining sections and complete Committee Stage at 4.30 p.m.

An Cathaoirleach: Is that agreed? Agreed.

Sitting suspended at 1.50 p.m. and resumed at 2.30 p.m.

Finance Bill 2011 [Certified Money Bill]: Committee Stage (Resumed)

Sections 62 to 64, inclusive, agreed to.

SECTION 65

Question proposed: "That section 65 stand part of the Bill".

Senator Liam Twomey: The section provides for a levy on private health insurance. The question I have goes back to when the new leader of Fianna Fáil was Minister for Health and it relates to the VHI's reserves. Why are VHI customers being hit so hard with levies and increased costs given we have never been given a clear answer as to why VHI needs a capital reserve of 40% when it could be 25%? Has the Department of Finance considered reducing the reserve ratio from 40% to 25%? There is no need for a health insurance company to have a reserve of 40% because it does not encounter the issues a normal insurance company faces. For example, a health insurance company does not have to deal with flooding and burst pipe claims and so on like a normal insurance company. Such companies require a reserve of 40% but private health insurance companies could get by with a reserve of 25%. Has the department ever examined this? This would prevent penal levies being applied to customers on top of penal increases in their health insurance premia. I was Fine Gael spokesperson on health between 2004 and 2007 in the Dáil. Deputy Martin was supposed to deal with this issue when he was Minister for Health, as was Deputy Harney, when she succeeded him. Unfortunately, we have never been given a clear answer on this.

Minister of State at the Department of the Environment, Heritage and Local Government (Deputy Michael Finneran): This matter is not exclusive to the VHI; it is a matter for all health insurance companies. It is also a matter for the Minister for Health and Children, not the Minister for Finance

Senator Liam Twomey: At the end of the day, it is a significant financial matter. Deputies Harney and Martin did not answer the question when they served as Minister for Health and Children. I had hoped the Minister for Finance who has told us he is down in the engine room morning, noon and night trying to sort out the economy might do something for those who have private health insurance and who are getting hammered with increases.

Question put and declared carried.

SECTION 66

Question proposed: "That section 66 stand part of the Bill".

Senator Ivana Bacik: I welcome the Minister of State. This section relates to stamp duty. Many Members have been contacted by first-time residential property buyers who were formerly exempt from stamp duty in the past number of days. They have not only experienced a reduction in their pay packets, an increase in the cost of their health insurance and the impact of the universally detested USC but they will also have to pay stamp duty, which they had not anticipated, when buying a home. I received an e-mail, which I am sure other Members received, in which the individual said he and his partner face an additional payment of €4,000, which is a significant amount, as a result of the changes proposed in this section. I am sure the Minister of State will point out that there is a reduction in stamp duty for non-first-time buyers. That is to be welcomed in terms of trying to get the housing market moving. At the very least there should have been transitional measures for first-time buyers who are actively contemplating buying a house or who have started the process. I accept there is a provision in section 66(3) relating to transitional arrangements but I gather — the Minister of State might clarify — that people will still be caught who had not anticipated having to pay this amount and for whom this will make a significant difference, especially given the effect of the budgetary measures and the imposition of the universal social charge on their January pay packets.

We did not have a chance to discuss the universal social charge due to time limits in the debate earlier today. The Labour Party tabled recommendation No. 5 on the matter on Com-

mittee Stage and I hope we will be able to return to the issue on Report Stage to discuss the impact of the universal social charge which, as the Minister of State will be well aware, has been the subject of enormous concern to people. An economic impact assessment should have been carried out on the imposition of the universal social charge. It was ironic that the impact of removing the section 23 tax relief was to be assessed prior to being introduced yet the universal social charge was simply to be introduced without any economic impact assessment, especially concerning low earners. That was the subject of our amendment which, as the Leas-Chathaoirleach is aware, we did not reach.

An Leas-Chathaoirleach: The recommendation has been dealt with.

Senator Ivana Bacik: I hope we will get an opportunity to discuss it on Report Stage. I would like the Minister of State to clarify the position in respect of stamp duty in section 66 and to put on record the concerns of first-time buyers such as those who have been in touch with us by e-mail.

Deputy Michael Finneran: I understand the universal social charge was dealt with earlier. Substantial reform has taken place in the budget and the Finance Bill on stamp duty. Some of the major changes introduced will be of extraordinary benefit compared with the previous regime. Properties valued up to €1 million are now liable to stamp duty at the rate of 1%. Where the value of the property is in excess of €1 million, the rate increases to 2%. Under the previous provision a rate of 7% applied on property values that exceeded €125,000 and the rate on properties valued at in excess of €1 million was 9%. There is a substantial gain for people under the new stamp duty regime. As Minister of State with responsibility for housing I expect the change to have an important stimulus effect on the property market by removing uncertainty. It may have a knock-on effect on the level of activity in the market. I am not trying to push people into the market but according to figures I saw yesterday, it seems stability has come to the market. I accept the number of sales that have taken place is limited. I do not think we should embrace the fact at this time but it does give an indicator, albeit at the lower level.

Stamp duty on property valued at €200,000 was €5,250 under the previous regime. That has now fallen to €2,000, representing a saving of €3,250 or 62%. That is a substantial saving under the new regime. Similarly, stamp duty on a house valued at €300,000 is now charged at €3,000 instead of €12,250. That is a saving of €9,250 or 76%. The reform of stamp duty will have a positive benefit for people in the property market or those who wish to enter the property market.

Senator Ivana Bacik: In my initial contribution I acknowledged that the budgetary changes resulted in many people making savings on stamp duty. As the Minister of State will be aware from his own experience as Minister with responsibility for housing, however, there was more activity in the housing market among first-time buyers, even given the unstable and weak property market we have seen recently, precisely because they did not have any negative equity. I specifically ask the Minister of State to address the point I raised of the impact of the change in stamp duty on first-time buyers. That is something that has been raised with me. Is it not the case that the proposed change will have an impact on those seeking to enter the market for the first time who had not anticipated having to pay stamp duty and are now liable to pay it? I think I am right. That is what people understand to be the case.

Deputy Michael Finneran: I accept Senator Bacik's argument but I must be practical in what I say in response. It would be great if Senator Bacik could tell me where she can buy a house for €125,000 in Dublin city at the moment but no such price has come across my desk in the

[Deputy Michael Finneran.]

Custom House. The current regime is a great improvement on the previous regime. First-time buyers must live within their means. They buy at various levels in the market — or they did, given that there is not much activity in the market currently. I do not see how one could say the change is an imposition on first-time buyers based on the threshold of €125,000. The regime is reformed on the basis of the figures I outlined. I do not accept that an extra imposition is being made on anyone as the changes are of benefit.

The new rates will apply to properties transferred on or after 8 December 2010. A transition measure will be put in place to ensure that anyone who has entered into a binding contract to purchase a property before 8 December 2010 and who executes the transfer of that property before July 2011 will not be at any disadvantage. That is the bottom line on this particular matter.

Senator Ivana Bacik: I did say I recognised there was some attempt at providing a transitional arrangement in section 66(3), but it is clear that people who had contemplated buying a house will still be caught. The Minister of State has accepted that first-time buyers who had contemplated buying a house had put their finances in order for a particular sum and must now face having to find a substantial additional amount of approximately €4,000 based on stamp duty at 1%. The change will have an impact on them. I wish to ensure that is put on record and the Minister of State is made aware of the impact.

Question put and declared carried.

Sections 67 to 69, inclusive, agreed to.

SECTION 70

Question proposed: “That section 70 stand part of the Bill.”

Senator Eugene Regan: Section 70 provides for the filing of tax returns in respect of capital acquisitions tax by 30 September each year in place of 31 October. The Minister of State will recall that a similar change was proposed for income tax generally but that was reversed in the Dáil deliberations on the Bill. It is an oversight and a flaw in the Bill that the provision was not similarly reversed for capital acquisitions tax. I say it is an oversight because if one goes back to the Finance Bill 2010, the explanatory memorandum states that the Bill provides for the payment of capital acquisitions tax and the filing of a return to be brought into line with other self-assessment taxes. The objective was to have the same deadline for the submission of returns and payments in the case of income tax on a self-assessment basis and capital acquisitions tax. I ask the Minister of State to accept that this section be deleted. I would be disappointed if this type of correction could not be accommodated during the debate today. It should be if the House is to have any input and the debate any meaning in terms of correcting what are clearly oversights and errors in the Bill as a result of the speed with which it been dealt in the Dáil.

Deputy Michael Finneran: The Capital Acquisitions Tax Consolidation Act 2003 relates to the payment of gift tax and inheritance tax and the filing of returns in respect of these taxes. I understand this is the area of interest to the Senator. The amendment brings the date of the file and payment forward from 31 October to 30 September. Section 70, as passed by the Dáil, brings forward the pay and file date of the Capital Acquisitions Tax, CAT, in respect of gift tax and inheritance tax from 31 October to 30 September. The section also makes consequential changes to the provision relating to the date when interest becomes chargeable in respect of the late filing of a return. Section 46(2A) of the Capital Acquisitions Tax Consolidation Act

2003, inserted by the Finance Act 2010, provides that where the valuation date in respect of a gift or an inheritance arises in the period from 1 January to 31 August, tax must be paid and a return delivered on or before 31 October of that year. Where the valuation date arises in the period from 1 September to 31 December, tax must be paid and a return delivered on or before 31 October in the following year. Returns filed electronically benefit from the extended filing deadline of a further two weeks. The extension applies to more complex CAT cases since cases involving more complex CAT reliefs, such as benefit and farm relief, are statutorily required to be filed electronically. The Revenue electronic system provides calculation assistance such that taxpayers and their agents can be assured that the correct tax has been paid. For example, in the case of a valuation date that arises in August, the date due for filing a return and paying tax will not be 30 September. In practice, most returns will be delivered electronically under the Revenue's on-line system. This affords a solicitor acting for a taxpayer six or seven weeks to deliver a return and pay tax, even where a valuation date arises at the end of August. That is the position on the Senator's query.

Senator Joe O'Toole: I recognise that the Minister of State has given us several dates. I trust he will correct me if my understanding of the matter is wrong. However, I understood that last year or the year before we changed the date of the return of capital acquisitions tax to a date in October as a tidying up operation and to ensure the two dates coincided. The argument from the Department at the time was that both dates should be the same in everyone's interests. This is on what I wish to focus and I support the points made by Senator Regan. I believe we should delete this section. The Government then decided that it would get back the self-employed tax one month earlier in September in order that money would come in earlier. It took the view, following from the logic of the previous year, that since it was bringing back the self-employed deadline by one month it would also bring back the date of return for capital acquisitions tax. Consequently, the Finance Bill as published had the new date in September for capital acquisitions tax and self-employed returns. That was fine and everyone was aware of it although some people expressed reservations. Chartered Accountants Ireland stated this would create a great deal of pressure on everyone to get returns in on time and resisted the measures. I am unsure how strongly it resisted the changes but it expressed concerns and called for the changes to be reconsidered. In the meantime, two men, Independents, in the back row of the Dáil took a similar view. They indicated to the Government that they would not be in a position to support the Finance Bill for several reasons, one of which was the earlier date for taxation returns. Having listened to them and everyone else, or perhaps for no reason, the Government decided not to change the date for the self-employed returns and amended the Bill accordingly. However, the Government forgot to do the same in the case of capital acquisitions tax. We are left with the same anomaly, an inverse anomaly to that which arose last year. Last year there was a difference of one month and now there is a difference of one month.

We do not propose to change the wording but to take out section 70 which would ensure that both dates are the same. People should come out with their hands up, admit they made a mistake and got it wrong and correct it now. The sensible thing would be to delete section 70. I believe Senator Mary White would agree with me. There is enough pressure on self-employed people and small businesses. The deadline one month earlier would have been a disaster for them. Moving the date for capital acquisitions tax now flies in the face of the logic given to us last year, which was to have both returns in the same month and on the same day. I oppose section 70 and I urge the Minister of State to accept that it should be deleted. I support the proposition of Senator Regan.

Senator Eugene Regan: The Minister of State gave an explanation of what is in the Bill, which is helpful, but it is no more than an explanation. He has given no argument as to why

[Senator Eugene Regan.]

the correction I propose could not be accepted. A policy of consistency was instituted last year which provided that the filing of returns in respect of capital acquisitions tax be brought in line with other self-assessment taxes. The opposite is being done this year but I do not believe this was the intention. I believe it was an oversight when the policy of bringing forward the self-assessment returns to September was reversed. In the interests of consistency, the same should be done here. The reason we have the Seanad is to examine and to point out these anomalies in legislation even if it is being put through at rapid speed. I call on the Minister of State to recognise the error made in the Bill.

Senator Liam Twomey: The reason the Minister changed the legislation earlier in the Dáil was predominately to facilitate the farming community. Single farm payments are made in the middle of October and farmers would have been expected to pay tax on income earned two weeks after the deadline. It would have been a matter of great concern to farming communities to have to pay up-front based on a cheque expected in the post two weeks afterwards. This was the main thrust of the case made by Deputies Healy-Rae and Michael Lowry. It is a pity there was no taxation expert available to explain capital acquisitions taxation issues to Deputy Jackie Healy-Rae. Otherwise, perhaps the Minister would not have found himself in this position. Now, he must try to correct a problem he made for himself.

In some respects this is a technical amendment. If one seeks proper continuity in taxation legislation and one seeks to line things up properly, it stands to reason that what Senator Regan is suggesting is correct. The Minister should get rid of this section. I am unsure whether it is because he does not wish to discommode the same Deputy Healy-Rae, drag him up from Kerry at 8 p.m. and have him correct the legislation after he went to so much trouble some time ago to sort it out for the Government. Senator Regan is correct.

This section should be amended, not in the way proposed by this side of the House but in the way outlined by the Minister for Finance in the explanatory memorandum to last year's finance Act.

Senator David Norris: The Government now maintains it does not create a difficulty in principle if there are two deadlines when last year it claimed they needed to be the same. Will the Minister of State give the theoretical justification for this change of argument?

I understand this provision was inserted primarily to produce a yield for the Revenue Commissioners and in order that the Government would have a cash-flow a month earlier. I argued this morning about the problems this would create for the self-employed and small enterprises.

Recently I heard a businesswoman on radio explain how her company which
3 o'clock employed a few people was just about liquid. If she had to find the money one month earlier to pay this tax, she would have to go to the banks for it. More than likely, she explained, they would refuse her credit and her company would collapse. I cannot believe the Government wants there to be such absurd scenarios. I am not going to say anything personal about Members of the other House who secured this alteration to the Bill. I welcome the fact that the Government has amended the provision for self-employed persons with small businesses.

There are many anomalies in the tax system. In the past I did other work in broadcasting, film and theatre and had to engage in the irritating business of forecasting my earnings from this work. I understand why the Government needs a cash-flow, but projecting one's income when one does not know how much one will receive is impossible. If one declares too little, one is charged interest by the Revenue Commissioners; if one overpays, one certainly will not get any interest payments back. I am interested to hear the justification for retaining two

separate dates. This apparent anomaly was rectified last year but in a way that prejudiced some small businesses. They got on to representatives in the other House who put the squeeze on the Government which, accordingly, amended the legislation. I welcome the change made.

I will vote against the section with Senators O'Toole and Regan unless the Government convinces me that the arguments it made last year for aligning the dates do not apply this year.

Senator Ivana Bacik: It seems anomalous that the deadline for the making of tax returns by the self-employed was extended again but was never changed in the case of capital acquisitions tax. Having separate dates creates an undue burden of extra bureaucracy. It is not just that the deadline is one month earlier but September is a significant month for manufacturing businesses, as the summer can be a quieter time and cash-flow may be needed to meet other payments. It is reasonable, therefore, to leave the deadlines the same for both tax returns. As other Members said, it seems the Government overlooked this matter when it reversed its original decision to bring forward the deadline in respect of capital acquisitions tax. It is not a major ask for the section to be deleted.

Senator Feargal Quinn: I understand how these deadlines were overlooked. If we want to make Ireland attractive for small businesses to start up in, we need to remove much of the red tape. Several years ago Panama decided it was going to encourage new businesses to open there. One measure it introduced to achieve this ensured it would take only seven hours for a business to go through the paperwork needed to set up. Measures such as the one contained in this section go against the opportunity of making Ireland an attractive location to establish new businesses. I urge the Minister of State to delete the section.

Senator Mary M. White: While this section provides for capital acquisitions tax, inheritance and gift tax, it has nothing to do with small business. Ireland, despite what has been said, is positive when it comes to new businesses. According to the World Competitiveness Yearbook, it remains an attractive place in which to do business. In the competitiveness league table it is in first place in respect of corporate tax rates, fourth in respect of the availability of skilled labour, fourth in being open to new ideas, sixth in respect of labour productivity and seventh in respect of the availability of financial skills and the flexibility and adaptability of its people. Up to 50% of enterprises in Ireland are engaged in innovative activity, placing Ireland well above the EU average of 39%. While I respect Senator Regan's arguments on the section, they are not precisely to the point in this regard.

Deputy Michael Finneran: In the Finance Act 2010 the dates for pay and file returns by the self-employed and for capital acquisitions tax were brought forward. After concerns were expressed by the self-employed, they were removed from this provision in this Bill. There were valid reasons for bringing forward the dates as it allowed for the making of more accurate forecasts. The general concerns about the self-employed had nothing to do with farmers, Deputies Healy-Rae and Lowry. It had to do with the genuine concerns brought to the Minister's attention by tax firms and IBEC. It is a common-sense response to their concerns.

Senator Mary White is correct that this section relates to capital acquisitions, inheritance and gift tax, not the self-employed and small companies. It is important to place that point on record. What is being done relates to the fact that the Minister for Finance responded to concerns raised by tax firms and others.

Senators will accept that bringing forward the dates relating to the self-employed and CAT will, as I have already stated, be of great assistance when it comes to forecasting. Neither the Minister nor his Department has made a mistake. What is proposed in section 70 represents a

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response to concerns that were raised. In such circumstances, the arguments put forward by those on the opposite side of the House cannot be accepted.

I wish to place on record the fact that there will be no cash-flow benefit for Revenue as a result of what is proposed. I must inform Senator Norris that interest applies in respect of overpayments made.

Senator Eugene Regan: The Minister of State has not offered any argument which is sufficient to justify the anomaly contained in the Bill. He referred to the original intention of the Minister, Deputy Brian Lenihan, in bringing forward the dates relating to the self-employed and CAT is to enable better forecasting. The Minister reversed his position in that regard and it appears that either he or his Department has forgotten the consequential amendment that will be required as a result. I am not making a political point here. My argument relates to the technical and self-evident flaw contained in the Bill, which introduces an inconsistency in the Government policy enunciated in last year's Finance Act. I cannot understand how the Minister, when he considers its merits, is unable to accede to the argument being put forward.

It is self-evident that there is an inconsistency in the Bill. That inconsistency was corrected last year but it has been reinstated in section 70. I intend, therefore, to press the matter to a vote. If what is happening is representative of the manner in which the Minister for Finance is intent on dealing with recommendations or corrections in the House, he is making the Seanad irrelevant. It is disappointing for Senators, who are assisting the Government with regard to the passage of the legislation, that the arguments they are putting forward — which would involve the making of technical amendments consistent with the Government's policy — are being dismissed.

Deputy Michael Finneran: An attempt is being made to portray what is being done in section 70 as some type of oversight or mistake on the part of the Minister. I categorically deny this is the position.

Senator Eugene Regan: The mistake is self-evident.

An Leas-Chathaoirleach: The Minister of State, without interruption.

Deputy Michael Finneran: That is not the situation. The position is that the Minister responded to concerns expressed by the self-employed and others regarding this matter. That was quite a practical step to take. Different dates apply in respect of the payment of various taxes. What is new about that? I wish to reassure the House that the Minister took this decision——

Senator Liam Twomey: It was the Government that wanted to tidy up the position.

An Leas-Chathaoirleach: The Minister of State, without interruption.

Deputy Michael Finneran: —in response to submissions he received. The self-employed were concerned that, perhaps, there had not been adequate engagement with them. The Minister was correct to take this practical step.

Senator David Norris: I thank the Minister of State for the explanation he has provided. I was very interested to learn that one can obtain interest in respect of overpayments. I shall re-examine my tax calculation to discover whether I received such interest. However, that is a very minor point of a personal nature.

Despite his illuminating comments, the Minister of State did not answer one specific question I put to him. As a result, I feel obliged to pose it again. There has been a change of Government

policy. In this House last year, the Minister for Finance, another Minister or a Minister of State offered what were obviously compelling arguments to the effect that the two dates we are discussing should be aligned. The record will show that in the debate on last year's Finance Act, arguments were put forward and the House then voted in favour of what was proposed. I am sure that, on the occasion in question, Senators voted on a majority basis because they were convinced by the arguments offered by the Minister or someone acting in his stead.

Something has changed because the Government has decided, as the Minister of State indicated, that there is no difficulty with having different dates. I am not a tax expert, but he maintains that different dates apply in respect of various taxes. I hope there are not too many such dates because that would suggest a certain amount of chaos. However, there may be different dates in certain technical areas, the obscurity of which has removed them from my attention.

The fact remains that a Minister of this Government — from the seat in which the Minister of State is listening to the points we are putting forward — last year offered an argument — which subsequently prevailed — to the effect that it was important, in the context of the well-being of the country's finances, to align the dates. We have now changed one, as a result of argumentation. It does not matter to me who was responsible for having the relevant amendment accepted. I have no doubt the two people to whom the Minister for Finance referred in the Lower House may have had some impact. However, I heard both the representative of IBEC and the woman to whom I referred speaking on the radio. As far as the latter was concerned, it was certainly a question of money and not one of forecasting. Indeed, it was a matter of required payment and being obliged to find the money. It is not the case that one can provide a forecast to the Department of Finance. My forecasts are always accompanied by a cheque. That is the problem. It is a question of money, it is not just a forecast. What has happened has created significant difficulties for a large number of small businesses.

I very much welcome the fact that this change was made in the Lower House. However, my simple question remains unanswered. What principled, philosophical or policy change occurred between last year and this? Is there an explanation to be offered which is based on a coherent approach to the financial strategy of the Government or is it just a case of pragmatism? Was it the case that the scales dropped from the eyes of the Minister for Finance and that, as a result of interventions on the part of various professional bodies, accountants, tax experts, members of IBEC, etc., and on foot of political pressure exerted in the Lower House, he perceived the need to change the position? If the latter was the case, then he was being pragmatic. There is no theoretical support or basis for what was done. We are talking here about a political judgment made in the light of political reality. If the Minister of State could provide an answer to the specific question I have posed, I would be extremely grateful.

Senator Ivana Bacik: Why are the dates different? The Minister of State indicated that it is quite common for there to be different deadlines in respect of the payment of various tax returns. I accept that. However, why are the dates relating to the self-employed and CAT different when it is clear that the original intention was for the same date to apply in respect of them? I do not believe the Minister of State has responded satisfactorily to that question.

Deputy Michael Finneran: Many things have changed in the past 12 months. I accept the point to the effect that the Minister wanted to bring forward the date. There is no question about that. If he had not responded to the concerns expressed by the self-employed, I am of the view that a counter-argument would have been put forward by Senators during this debate.

Senator David Norris: I welcome the fact that he responded. I inquired with regard to the philosophical change which occurred between last year and this.

Deputy Michael Finneran: The Minister responded in light of the concerns expressed by —

Senator Eugene Regan: That is not the issue.

Deputy Michael Finneran: —the self-employed, IBEC and others. An attempt is being made to state that what is being done resulted from the involvement of some other individuals. I completely reject that assertion. There was a short timeframe involved and the self-employed, IBEC and the others to whom I refer had concerns with regard to the level of consultation that had occurred. It was quite appropriate that the Minister should respond to those concerns. Those to whom I refer are major contributors to the economy. If the Minister for Finance had been pig-headed and refused to accept their concerns, I am of the view that Senators — on foot of representations made to them — would be offering a different argument today. I compliment the Minister for Finance on dealing with the concerns that were raised in the context of the short consultation period.

I reiterate that there will not be a cash-flow benefit to the Revenue or to the Minister as a result of what is being done. That is the factual position.

An Leas-Chathaoirleach: Is section 70 opposed?

Senator Eugene Regan: Yes.

Senator David Norris: The Minister of State did not answer the question.

Question put:

The Committee divided: Tá, 28; Níl, 23.

Tá

Boyle, Dan.	Leyden, Terry.
Brady, Martin.	McDonald, Lisa.
Butler, Larry.	Mooney, Paschal.
Callely, Ivor.	Ó Brocháin, Niall.
Carroll, James.	Ó Domhnall, Brian.
Carty, John.	O'Brien, Francis.
Cassidy, Donie.	O'Donovan, Denis.
Corrigan, Maria.	O'Malley, Fiona.
Daly, Mark.	O'Sullivan, Ned.
Dearey, Mark.	Ormonde, Ann.
Ellis, John.	Quinn, Feargal.
Feeney, Geraldine.	Walsh, Jim.
Glynn, Camillus.	White, Mary M.
Hanafin, John.	Wilson, Diarmuid.

Níl

Bacik, Ivana.	McFadden, Nicky.
Bradford, Paul.	Mullen, Rónán.
Burke, Paddy.	Norris, David.
Buttimer, Jerry.	O'Toole, Joe.
Cannon, Ciaran.	Phelan, John Paul.
Coffey, Paudie.	Prendergast, Phil.
Cummins, Maurice.	Regan, Eugene.
Donohoe, Paschal.	Ross, Shane.
Fitzgerald, Frances.	Ryan, Brendan.
Hannigan, Dominic.	Twomey, Liam.
Harris, Eoghan.	White, Alex.
McCarthy, Michael.	

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Eugene Regan.

Question declared carried.

Sections 71 to 73, inclusive, agreed to.

SECTION 74

Senator Eugene Regan: I move recommendation No. 9:

In page 214, lines 12 to 22, to delete paragraph (a).

Section 1002 of the Taxes Consolidation Act gives many powers to the Revenue Commissioners to ensure taxes are paid and collected, but the proposal in this section is a step too far. I accept this Bill is a form of emergency legislation but this provision should not be slipped in like this. What we have here is a power being given to the Revenue Commissioners to serve a notice which attaches the emoluments and earnings of a person for the purpose of collecting taxation, where it determines that there is a debt due from the taxpayer, regardless of whether it is contested and without any intervention of the courts.

There have been many debates in this House about attachment of earnings for the payment of fines but this has been consistently resisted by the Minister for Justice and Law Reform, yet here is an attempt to confer such a power on the Revenue Commissioners. I question its constitutionality and propriety. It is a police-state type of provision and I do not believe it should be waved through this House without proper scrutiny and debate. Section 74 should not form part of the Bill. This is a draconian measure. People I have spoken to and even people in the Revenue Commissioners do not believe it is necessary and consider it to be over the top. There is no explanation as to why such a power is required or where there is a deficit in the powers of the Revenue Commissioners which necessitates this type of draconian measure.

It is disproportionate to what is sought in any of these provisions relating to the powers of the Revenue Commissioners. It is not necessary or appropriate and I question its legality. I oppose this extraordinary power which the Bill seeks to confer on the Revenue Commissioners.

Senator Joe O'Toole: I fully support the points made by Senator Regan. I generally support powers for the Revenue Commissioners but, and the Minister can correct me on this, a number of issues arise from this. One is the constitutional provisions on private property. How can one attach somebody's salary without going through a process, usually a court process? I do not know whether issues such as errors in fact and errors in law come into this discussion. It is not a case of me not wishing to give power to the Revenue Commissioners, but this is far in excess of what would be available to a state in a normal democracy. That is the issue. It is a very serious point and I ask the Minister to address it. Is it a fact that an arm of the State can effectively attach and take from a person's salary without going through a process in the courts or otherwise? It appears to be an extraordinary power. What are the legal bases and constitutional issues that were waded through to get to this point?

Senator David Norris: I support Senator Regan's recommendation and echo what Senator O'Toole said. There might well be a question of constitutionality if, for example, the disposition of a home and property is concerned in this business. I do not know about that. Again, I wish to ask the Minister a specific question and perhaps on this occasion he might find it possible to answer it. Are there any limitations on this? There do not appear to be. This is a very broad brush. It is a general power of attachment.

What concerns me, and it might be covered by other regulations, legislation or the Constitution, is a case where an order of attachment is made and virtually all of a person's income is taken away because of a debt. The debt exists and there is a moral obligation to pay it, but

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what about the living arrangements of the person involved? If this is the only income that person has, surely some arrangements must be made to permit them to continue to live and support their family.

This is an absolute power and there appear to be no limitations set to it by this section. That is a horrendous power to exercise against a citizen. Of course, they might have incurred and owe the debt but they are still entitled to look after the welfare of their family and to provide proper accommodation and sustenance for themselves and their family. Nowhere does that figure in this provision. If Senator O'Toole's assumption is correct that there is no recourse to law and no review by the judicial system, this is far too sweeping.

Senator Feargal Quinn: I am surprised at this provision because it appears to be far over the top. I am probably guilty of not knowing the Constitution well enough but it appears likely that it would be outside a person's constitutional rights to do this. If I understand "the relevant person to the taxpayer as emoluments under contract of service" correctly, it means that if somebody is entitled to a salary, the Revenue Commissioners may take that amount of money out of the emoluments. As Senator O'Toole said we all want to ensure those who owe tax pay it. However, it seems to say the Revenue Commissioners can take all the person's salary and the total emoluments — the Bill does not seem to say it can take a portion of it over a number of years. It might be somebody working for the State who owes money and the State will be able to take every single penny of it. It seems that such a person would not be able to feed his or her family and to carry on a normal life. I imagine it is highly unlikely that the provision is constitutional, although I do not know the Constitution well enough to be able to say that it is so. However, I believe this is one particular flaw in the Bill. If there is any part of the Bill on which we should be able to pass a recommendation, it is this section. It is highly unlikely that it is constitutional. We are supposed to have a second look at legislation in this House, so this is exactly what we should be doing and I compliment Senator Regan on finding it.

Senator Ivana Bacik: I echo the concerns raised by other speakers on this provision. Can the Minister clarify to what extent this provision expands the existing powers of the Revenue Commissioners under section 1002 of the principal Act, the Taxes Consolidation Act 1997? It seems to bring about a significant expansion of the existing power of the Revenue Commissioners, and that is a very valid concern.

Deputy Michael Finneran: Section 74 introduces a number of measures in respect of the attachment of debt. The Senator's recommendation would remove from the Bill the provision that allows the Revenue Commissioners to attach emoluments to recover unpaid liabilities of taxpayers. Attachment of an enforcement is an option available to the Revenue Commissioners to recover unpaid tax, unpaid interest or unpaid penalties due by taxpayers who have ignored collection approaches, notifications and procedures taken by Revenue. Attachment is used judiciously by Revenue in accordance with strict guidelines which require that any decision to use attachment must be approved at principal officer level, or nominated assistant principal officer level.

A number of amendment provisions have been made, in light of the experience of the Revenue Commissioners, in order to make it more effective in pursuit of tax defaulters who have ignored all reasonable attempts to collect taxes in default and to improve efficiencies in certain circumstances.

When attachment was introduced in 1988, attachment of emoluments was not regarded as necessary by reference to the circumstances that prevailed at the time. However, circumstances have changed since, and many persons now carrying on trades or professions also derive emolu-

ments from directorships and from employment. In addition, certain persons carrying out trades and professions have ceased those activities, leaving undisputed tax liabilities unpaid. Where these people have directorships or employments, it is appropriate that they should meet their tax debts of previous and current years, whatever the sources of their resources. Where this is not done on a voluntary basis, it is appropriate that the Revenue Commissioners have the use of attachment procedures where necessary to cover these debts. These procedures are only used by the Revenue Commissioners when all normal collection attempts have been ignored by the taxpayer.

If the Senators' recommendations were accepted, it would mean the Revenue could not attach the salaries of well paid individuals with significant entrenched tax debts. It would also mean that individuals who have ceased trading but who are in well paid employment and who, in spite of all reasonable efforts by the Revenue, have not engaged seriously in respect of the payment of tax and have substantial tax liabilities unpaid, can effectively ignore Revenue for very long periods. Given the need to ensure that all tax legally due to the Exchequer is collected in order to maximise tax revenues, I consider it only right that the Revenue Commissioners have the use of attachment procedures in these circumstances. Therefore, I cannot accept the recommendations.

Senators raised a number of points. The 1988 Act applied to assets. The question has raised as to whether there is any appeal. An appeal is available to everybody through the Revenue appeals office. That exists for these circumstances as well. The Bill expands the opportunities for the Revenue Commissioners, but it is only for last resort.

Senator Joe O'Toole: Where does it state that it is only as a last resort?

An Cathaoirleach: The Minister of State, without interruption.

Deputy Michael Finneran: It only occurs where people have practically ignored the Revenue Commissioners. It only moves forward on the involvement of a principal officer or appointed assistant principal officer, and in circumstances where the Revenue Commissioners are aware of substantial income being available and people not meeting their liabilities.

Senator Eugene Regan: The Minister of State refers to people who ignore the law, but that is why we have courts in this country. For the Revenue Commissioners to determine the law and its enforcement mechanism is entirely inappropriate in respect of what is provided for here. It is an offensive section of the Bill. It is unqualified. There are no safeguards. To suggest that an attachment notice would be issued by an official no more junior than a principal officer provides no justification for it.

For a provision like this to be constitutional, it must be necessary. I cannot see how the Minister of State has set out the case. It has to be proportionate and I do not see how that is the case either. The provision gives an absolute power to the Revenue Commissioners on top of the powers that they already have. There is no reason set out that could justify it. It can have the effect of destroying someone's livelihood without any mechanism for that person to prevent that happening. If it was ordered by the court, then it would be an appropriate procedure to use attachment of earnings, but for this to be done by way of an administrative decision from an official in the Revenue Commissioners is entirely disproportionate and unnecessary. I will be pressing this amendment.

Senator David Norris: I support what Senator Regan has said and I am not satisfied by the Minister of State's reply. I do not think he answered one element of the question I raised. The whole idea of attachment goes back much further than the 1980s. One can find it in novels by

[Senator David Norris.]

Charles Dickens. It was a feature of the Victorian era in Britain, where earnings and so on were attached. However, that does not matter. These are swinging powers.

In his reply, the Minister of State gave us a kind of humanised sketch of a series of situations. That may very well be true. There may very well be decent, kind, loving, caring, Christian, Jewish, Muslim or ethical people employed in the Revenue Commissioners. I am perfectly certain there are because I personally know that some of them fit those headings. On the other hand, that is just a little dramatisation. We are here as legislators, not as auditors of a dramatic fantasy of the Minister of State. We must look at the possible applications of this Bill. I have pointed out that there appear to be no limits whatever. The Minister of State has not indicated that there are any limits. I indicated that it appeared to be possible that the entire income of a citizen could be so attached. In other words, the citizen would be left with nothing on which to live or to support his or her family. The Minister of State has not said that there are any limitations. He did say that there was recourse to a Revenue appeal. I have no doubt there are principled officers who are given this unusual and onerous responsibility, as suggested by my colleague Senator Harris. I thank him for that rhetorical flourish but there is a good and substantial point underneath the rhetoric. It is a huge responsibility, particularly if it means extinguishing the entire income of a citizen. Why do these powers need to be so extraordinary if the people operating them are of such a sensitive nature that they will never require the full armoury provided by this legislation?

I would like the Minister to explain the following point to me. I do not want any little playlets, just a reply to the point. Is it possible, even theoretically — until it is applied this law is theoretical — that in its application this section could envisage, contemplate and bring about the removal of the entire income from a citizen? That is the principal question I would like to ask. I will not muddy the waters and invite further excursions into the imagination on the part of the Minister. I would just like him to answer that question. Is it possible that under this proposal the entire earnings of a citizen could be removed?

Senator Joe O'Toole: I want to make two points. We pick up our newspapers day after day and see that it has taken three years for the State under the Criminal Assets Bureau to get attachment of Mr. Gilligan's property. It has to go through all sorts of hoops to do that. Any professional body, say, the Medical Council, that wants to strike off or deprive somebody of his or her salary must go to the High Court to get approval for that decision, and it is the same for almost every professional body. If the Law Society of Ireland wants to deprive somebody of his or her salary, after taking the decision it must get it endorsed by the High Court. I could give other examples closer to home with which we have been dealing in recent times.

The idea that an official can decide he or she has reached the last resort and has dealt with all the issues without having to explain himself or herself to any outside body is outrageous. I believe this measure will be tested and I do not believe it will sustain a challenge. I do not believe it is sound. Obviously, the Minister of State is not for turning on it but he must see this as I do. When we consider what one must go through to attach someone else's property, I cannot understand how it can be done in this legislation.

To save the Minister of State repeating himself, I agree with everything he said in the example he outlined. Nobody is arguing about that. We have all said that. If there is tax owing it must be got. We want to give proper powers to the Revenue Commissioners but we are saying these powers seem not only excessive but perhaps *ultra vires* and questionable constitutionally. That is my last say on the matter. I hope the Minister of State will respond to some of those points. If he does not, I cannot do anything about it.

Senator David Norris: If a case is successful it will cost the State more money.

Senator Rónán Mullen: I too support Senator Regan's recommendation, and my colleagues have spoken eloquently about this issue. We live in dangerous times. Because the country finds itself effectively in an economic state of emergency there is a temptation at times such as these to take draconian measures, just as there is a temptation at a time when people are frustrated with the workings of the Oireachtas, for example, to make simplistic arguments about abolishing one House of the Oireachtas. It is at times like this that we must be especially careful. As Senator O'Toole and others have said, we have our courts for a reason. We have the separation of powers for a reason and it is not appropriate to provide for this kind of power to reside within the Revenue Commissioners. In providing for the power of attachment I wonder why the Minister does not go the whole hog and provide for the power of committal while he is at it. The separation of powers exists for a reason.

We are talking about something as fundamentally important as people's livelihood, and we are all equal and united in our disapproval of those who evade tax and united in our desire to see the Exchequer garner and collect all to which it is entitled, but that does not mean we abandon all responsibility in the mechanisms we create and tolerate for the achievement of that goal.

This is yet another example of how wrong-headed it was to run this legislation through this House in such a short period of time. There is something substantially wrong in this measure. It deserves to be properly considered. It deserves to be the subject of an amendment, put and voted on. If right were right, the Government would see the sense in this proposal and it would go back to the Dáil this evening by way of a recommendation where we would not just have a *pro forma* exercise in the Dáil but a solid recommendation from the Seanad being accepted by the Dáil later. That is if right were right but right is not right at the moment. I ask the Minister of State to reconsider before going ahead with this most unsound piece of legislation.

Senator Eoghan Harris: Well said.

Deputy Michael Finneran: I am assured by the Revenue Commissioners that they will have full regard to taxpayers' financial circumstances when using this power. It is to be noted that the section provides that the attachment, where used, may provide for the recovery of taxes over a period so as not to cause undue hardship to the taxpayer.

Senator David Norris: Where does it say that?

Deputy Michael Finneran: The Revenue Commissioners will draw up strict guidelines on the use of attachment——

Senator Eugene Regan: This is an afterthought.

An Cathaoirleach: Please, no interruption.

Senator David Norris: The Minister is not addressing the argument.

An Cathaoirleach: The Senator will have an opportunity to come back in to speak.

Deputy Michael Finneran: I will get around to Senator Norris's question shortly. The Revenue Commissioners will draw up strict guidelines on the use of attachment on the same basis as the existing guidelines that apply to attachments generally.

Senator Rónán Mullen: The Minister is shutting the stable door after the horse is shot.

An Cathaoirleach: Please, Members.

Deputy Michael Finneran: For a moment I felt that perhaps people are in support of tax defaulters. Certainly, I am not and——

Senator David Norris: We made it clear, Minister.

Deputy Michael Finneran: Some of the arguments might be inclined to lean towards that.

Senator David Norris: That is most unfair.

Deputy Michael Finneran: The provision is not intended to replace the current practice of recovery of small tax underpayments from PAYE employees by means of adjusting tax credits etc.

The question of constitutionality has been raised. As is the case in every item of legislation, including this Finance Bill, its provisions have been thoroughly investigated by the Attorney General and his staff and are deemed to be totally in line with the Constitution. I want to put that on the record. There are no constitutional issues involved. It must be noted that what we are talking about here is a means of last resort. We are talking about people who have evaded or attempted to evade to pay their taxes over a long period. They have adequate income but they have attempted to evade paying their taxes. That is the purpose of this measure.

I wish to make a number of other points, in particular the one raised by Senator Norris.

Senator David Norris: I am sorry but the Minister is characterising me wrongly.

Deputy Michael Finneran: The entire income——

Senator David Norris: What I asked was whether the entire income could be attached.

An Cathaoirleach: The Minister is replying.

Senator David Norris: He is not replying to what——

An Cathaoirleach: Wait for the Minister to reply.

Deputy Michael Finneran: It is not the case that the entire income of anybody would be taken. It is the case that where there is income, and indeed adequate income, the Revenue Commissioners would work out over a weekly, monthly, two monthly or six monthly basis the returns that should be made, in line with the income of the person concerned, provided he or she can afford it.

Senator David Norris: I ask the Minister to point out where that is stated in the legislation.

Deputy Michael Finneran: That is in the legislation, and that is what the guidelines will be on this item of legislation.

Senator David Norris: That is an insult to the House.

Deputy Michael Finneran: There is also the position that to some extent has been portrayed here that there is no appeal system. Everybody knows there are two appeals commissioners in this country. They are not appointed by the Revenue Commissioners; they are appointed by the Government. They have a quasi-judicial position and people have an entitlement to go to them. If they are unhappy with that, they have a further entitlement to go to the courts of the

land. That is available under this Finance Bill as well. It is important that is put on the record of the House.

These defaulters are not people who are pounced upon. They are people who have consistently and deliberately not engaged with the Revenue Commissioners in terms of meeting their tax liabilities and who have adequate income to pay them. That is the type of people about whom we are talking. It is highly appropriate that somebody who has taxes liable to the State, through the Revenue Commissioners, and can afford to pay them should pay them, even if it is over a period.

Senator Joe O'Toole: Nobody is disagreeing with that.

An Cathaoirleach: No interruptions.

Deputy Michael Finneran: Senator Norris made the point about legislation being in place in advance of 1988. I accept there is legislation in place going back perhaps 100 years but that is to do with debt and I am not talking about debt. I am talking about tax due to the State.

Senator David Norris: That is a debt.

Deputy Michael Finneran: It may be the case that there are other areas of private debt but this is tax due to the State.

It is appropriate in these times, and indeed at any time, that people who are due to pay their taxes and have adequate income to pay them should do so. There is existing legislation for attachment. The provision is inserted into the overall legislation. The counterbalance to the Revenue Commissioners exists in the courts. There is no question of this involving someone's total income being taken away. I totally refute that here on the floor of this House.

Senator David Norris: This will be my last comment. The Minister of State broadly stated that no one's entire income will be taken. I challenged him repeatedly to point to a place in the legislation where this is made clear. Perhaps this is possible, either in this legislation or in other legislation. So far he has not done so. Perhaps he will.

It is a debt. My colleagues are quite correct to raise the spectre of the debtors' prison. The Minister of State suggested we on this side of the House were in support of tax evasion. I ask him to withdraw that. Every one of us in sequence has stated clearly in this House that we all believe it is appropriate that people should pay their taxes. As far as I am aware, we all do. Certainly, I make strenuous efforts to pay every last penny.

He then stated this is a matter of last resort. That may be the case in practice to date but we have never had experience of the operation of this legislation. Nothing in this section or elsewhere states that this is a weapon of last resort or that it can only be used against persistent, deliberate and calculating tax evaders, which is what the Minister of State said, but there is nothing in the legislation that specifies that.

I am disappointed. I know the Minister of State of old. I remember him since he was a Member of this House and a more good-natured and decent person one could not meet. He is assuming that this will be the same as the Revenue Commissioners, as we all do. This legislation makes wide provision and one cannot assume that this will always be the position. If it is the position, why not make it clear in law? Why not make clear it is a last resort for persistent defaulters and all the rest of it and that the basic income necessary to sustain decent human existence will be protected? That is not in the legislation. If, as several of my colleagues have suggested, this is susceptible to a constitutional challenge and if that was successful, then the State will be stuck with another bill.

Senator Paudie Coffey: I fully endorse the recommendation. We all recognise that every earner in the State should pay their due taxes and we on this side of the House agree that no one should tolerate tax evasion of any sort. That strong message should always go out from Government and from the establishment.

However, Revenue officials make mistakes. I am sure the Minister of State will be aware, as I am from experience, of where bad decisions have been made by Revenue. In fairness, the Revenue appeals office plays a role in overturning some of those decisions and it is important it is in place and is working.

The part in this legislation to which we referred seems an attempt by Revenue to take on draconian powers. For example, where a self-employed person is employed by a contractor, if Revenue decides to serve a notice of attachment on that contractor, there is considerable

potential to damage the future earnings of that self-employed person and to
4 o'clock destroy the livelihood that he or she has always had. Everyone has a constitutional right to a livelihood. It seems that this is draconian. It seems logical that at least any person should have the right of recourse to a court and at least a court order should be sought before any such orders are made in order that the matter could be dealt with properly in the court.

I ask the Minister of State to seriously consider the recommendation. Such strong powers should not be given to Revenue. We all have constitutional rights in this country. The Minister of State has said repeatedly it is a last resort. The last resort is the courts of the country and he should not be handing over such powers to Revenue in this instance.

Senator Ivana Bacik: I reiterate what Senators Norris and Coffey stated, that all of us in this House fully support the necessary powers for the Revenue Commissioners to deal with tax evasion and tax defaulters. Clearly, no one seeks to make excuses or any case for tax evasion or tax default. In the Labour Party, we are very much in favour of rigorous methods being used in accordance with law to deal with tax evasion.

There was a reasonable question. I asked the Minister of State earlier to what extent this recommendation represents an expansion of the powers of Revenue under section 1002 and I did not hear a satisfactory answer to that question. Senators have raised valid concerns about expansion of powers without in any way attempting to speak against Revenue powers to deal with tax defaulters.

Senator Eugene Regan: The Minister of State's defence of this measure is vacuous. It must be an afterthought to suggest that Revenue will draw up procedures as to how it will implement this measure. We are passing legislation. We should be drawing up the guidelines.

Senator David Norris: Yes.

Senator Eugene Regan: The Minister should be drawing up the guidelines as to how the law is to be applied and we should not be handing over such significant powers to Revenue.

The current provision in section 1002 of the Taxes Consolidation Act 1997 states, "Any amount of money due by the relevant person to the taxpayer as emoluments under a contract of service shall not be regarded as a debt due to the taxpayer", and it is proposed to reverse this in one fell swoop. I still have not seen the justification for it. It is an arbitrary power that we are handing over and it makes for bad legislation.

Deputy Michael Finneran: First, I want to clear up one matter for the benefit of Senator Coffey. This does not apply to the self-employed. This applies to company directors and their employees who in many cases wind up with substantial salaries and have a debt left from

another time which they refuse to meet. It is important that Senators understand about whom and what we speak.

There is no question of this being draconian in so far as there is not an appeals system. There is an appeals system through the Revenue appeals commissioners. They are appointed not by Revenue but by the Government. That appeals system exists and if anyone is unhappy with that, he or she has recourse to the courts. It is important that position is well known and recorded here in the House.

By and large, these tax returns due are agreed tax returns. The point is that they are not paid and are dragged out over a period. This amends what was in the 1988 Act, in which assets were involved, to extend it to income and emoluments. That is all that is involved here. It is a practical step for the State to successfully collect taxes due to it from persons who can afford to pay them. The balance is important in so far as the same opportunity is available to the people in question to go to the Revenue Commissioners who have a quasi-judicial role or to the courts if they are unhappy with that.

I am not in a position to accept the recommendation. These are persistent persons who have consistently refused to pay after all the efforts by the Revenue Commissioners. We all have responsibilities to pay our taxes. Where there is a group which found what I might call an opportunity of not paying them, we should not leave that opportunity there for them to continue not paying them. That is what this attachment is about.

Question put: "That the words proposed to be deleted stand."

The Committee divided: Tá, 27; Níl, 23.

Tá

Boyle, Dan.	Leyden, Terry.
Brady, Martin.	McDonald, Lisa.
Butler, Larry.	Mooney, Paschal.
Callely, Ivor.	Ó Brocháin, Niall.
Carroll, James.	Ó Domhnaill, Brian.
Carty, John.	O'Brien, Francis.
Cassidy, Donie.	O'Donovan, Denis.
Corrigan, Maria.	O'Malley, Fiona.
Daly, Mark.	O'Sullivan, Ned.
Dearey, Mark.	Ormonde, Ann.
Ellis, John.	Walsh, Jim.
Feeney, Geraldine.	White, Mary M.
Glynn, Camillus.	Wilson, Diarmuid.
Hanafin, John.	

Níl

Bacik, Ivana.	Mullen, Rónán.
Bradford, Paul.	Norris, David.
Burke, Paddy.	O'Toole, Joe.
Buttmer, Jerry.	Phelan, John Paul.
Cannon, Ciaran.	Prendergast, Phil.
Coffey, Paudie.	Quinn, Feargal.
Cummins, Maurice.	Regan, Eugene.
Donohoe, Paschal.	Ross, Shane.
Fitzgerald, Frances.	Ryan, Brendan.
Hannigan, Dominic.	Twomey, Liam.
McCarthy, Michael.	White, Alex.
McFadden, Nicky.	

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Eugene Regan.

Question declared carried.

Recommendation declared lost.

Section 74 agreed to.

Sections 75 and 76 agreed to.

SECTION 77

Senator Eugene Regan: I move recommendation No. 10:

In page 219, line 1, after “officer” to insert “not below the rank of principal officer”.

Another power for Revenue is being introduced here. I draw the Minister’s attention to the definition of Revenue officer which includes serving and former officers of the Revenue Commissioners. My amendment relates to section 77(7), under which a Revenue officer may disclose personal information to a professional body where he or she is satisfied the work of an agent does not meet the professional standards of a professional body. It is provided that a Revenue officer of any rank can lodge a complaint with a professional body about a tax adviser, tax agent or otherwise.

In discussing the previous amendment the Minister said one of the safeguards was that an attachment notice would be issued by a principal officer or an officer of a higher grade. There is no such safeguard in this regard. Therefore, I propose that any such complaint by a Revenue officer would be made by a Revenue officer not below the rank of principal officer. This is a necessary safeguard, particularly in the light of the definition of Revenue officer. The facility that anyone in Revenue is in a position to lodge a complaint is open to abuse, if not subject to some supervision and approval at a higher level within the Revenue Commissioners.

Senator Joe O’Toole: I support Senator Regan’s recommendation. In its report for 2000 the Committee of Public Accounts discovered there was a problem with the relay of information from different groups. The legislation at the time was interpreted to mean that the Central Bank could not share information with the Revenue Commissioners and that the Revenue Commissioners could not share it with the Garda. When I chaired the Government audit review group in 2002, we asked for changes that would allow such information to be shared. The matter was dealt with in the Companies Act 2003, by way of a section dealing with confidentiality. While that legislation allows sharing to take place between the bodies mentioned, it also neutralises it by putting in place a requirement for confidentiality. This deals with professional bodies — I presume we are talking about the accountancy bodies. As I am a member of the board of the Irish Audit and Accounting Supervisory Authority, I have an interest in the matter.

An issue that arises is that in the investigation into Anglo Irish Bank there may well be information in the Revenue Commissioners that would be useful to the Director of Corporate Enforcement or the professional body or both. I recognise that we must deal with the matter as we find it, but the point raised by Senator Regan is crucial; such a licence must be controlled. If we are to have it, it should be done by someone of senior rank. Ten minutes ago the Minister of State indicated the previous measure which we opposed would only be operated by someone at principal officer or assistant principal officer level in the Revenue Commissioners. It is to get the same assurance that the issue is being raised and that is why I support Senator Regan. We all agree there should be a flow of information; in this instance we are saying how it should happen and seeking to apply what the Minister of State said ten minutes ago, that it would be done by someone at principal officer or assistant principal officer level.

Senator Ivana Bacik: The Minister of State pointed to a safeguard earlier where approval by a principal officer or above was required at Revenue before powers could be exercised. I note in section 74(c) that a new provision is to be inserted, referring to an officer of specific rank within the Revenue Commissioners, whereby “authorised officer” means an officer of the Revenue Commissioners authorised in writing to exercise the powers conferred by the section. Even if the Minister of State is not minded to accept Senator Regan’s amendment, another safeguard could be inserted to at least require that before an officer of the Revenue Commissioners could exercise this power, he or she would have to be authorised in writing to do so or else be of a specific rank or above. It is not that we oppose the giving the powers to the Revenue Commissioners, rather we want to ensure due process is observed and sufficient safeguards are in place. The safeguard proposed by Senator Regan is eminently sensible and accepted in principle in respect of other Revenue powers.

Senator David Norris: Some of the issues raised by my colleagues are met in the opening lines of section 77 dealing with definitions. Some of my colleagues have asked what an agent and a professional body are. They are defined and tend to be in the area of auditing, accounting and taxation services. That has been answered, although not perhaps by the Minister. I am sure he would have drawn our attention to this, but it is in a previous part of the Bill. However, I share the concerns of my colleagues about the seniority required of the person. There is no indication whatever in the legislation of the seniority required. If I understand the section correctly — perhaps I do not — anybody, down to a fairly junior level, could make this disclosure. There is a question of the integrity of information. I suppose this is a side issue, but a situation arose recently which has caused great concern, where ten or more computers were removed from the premises of the Revenue Commissioners in Dublin. People are very concerned about the release of sensitive information in inappropriate circumstances. This recommendation contemplates circumstances where it would be appropriate and where it would be—

An Leas-Chathaoirleach: As it is now 4.30 p.m., in accordance with the order of the House, the question shall be put on No. 1, the Finance Bill 2011, dealing with Parts 4, 5 and 6 of the Bill, sections 68 to 84, Schedules 1 to 3, inclusive, and the Title.

Senator David Norris: C'est la guillotine.

An Leas-Chathaoirleach: As it is 4.30 p.m. I am required to put the following question in accordance with an order of the Seanad today: “That recommendation 10 is hereby negated, that in respect of each of the sections, 77 to 84, undisposed of, that the section is hereby agreed to in Committee, that Schedules 1, 2 and 3 and the Title are hereby agreed to in Committee and that the Bill is, accordingly, reported to the House without recommendation.”

Question put:

The Seanad divided: Tá, 29; Níl, 22.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.

Dearey, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Harris, Eoghan.
Leyden, Terry.
McDonald, Lisa.
Mooney, Paschal.

Tá—*continued*

O'Brien, Francis.
 O'Donovan, Denis.
 O'Malley, Fiona.
 O'Sullivan, Ned.
 Ó Brocháin, Niall.
 Ó Domhnaill, Brian.

Ormonde, Ann.
 Quinn, Feargal.
 Walsh, Jim.
 White, Mary M.
 Wilson, Diarmuid.

Níl

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

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

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Eugene Regan.

An Cathaoirleach: As Senator Brendan Ryan omitted to vote, the result is: Tá 29; Níl 22. That has been agreed by the Whips and the record has been corrected to reflect this.

Question declared carried.

An Cathaoirleach: In accordance with the order of 28 January 2011, Report Stage will be taken now.

Finance Bill 2011 [Certified Money Bill]: Report and Final Stages

An Leas-Chathaoirleach: I welcome the Minister for Finance, Deputy Brian Lenihan, back to the House. We are on Report Stage. Before we commence I remind——

Senator David Norris: On a point of order, there is a reference on the list of Seanad recommendations to a printer's error in two of the recommendations. It is stated that a printer's error has resulted in incorrect line references. Does that have legal consequences for the Bill or does it require amendment? Do those numbers form part of the Bill as enacted and will it require an amendment to resolve the problem?

An Leas-Chathaoirleach: No, it does not require an amendment.

Senator David Norris: Thank you.

An Leas-Chathaoirleach: I remind Senators that a Senator may speak only once on Report Stage, except the proposer of a recommendation who may reply to the discussion on the recommendation. Also on Report Stage each recommendation must be seconded.

Senator Ivana Bacik: I move recommendation No. 1:

In page 7, between lines 26 and 27, to insert the following:

3.—*Section 3 shall not come into operation save by order of the Minister which may only be made after the Minister has carried out an economic and social impact assessment of the introduction of the universal social charge, particularly in respect of those on medical cards or over the age of 70 who were previously exempted from the health and income levies, and has laid the assessment before Dáil Éireann.”.*

The import of the recommendation is clear to all. It concerns the universal social charge which I described earlier as being a universally detested charge. The universal detestation with which it is being met will be clear to anyone who has been listening to the radio or knocking on doors because in recent days people have become very concerned as the impact of the charge has hit them in their pockets. The charge is a tax by any other name, replacing the health and income levies but having a disproportionate effect on the lower paid.

In the recommendation we have sought a delaying mechanism by saying that the section providing for the universal social charge should not come into operation save by order of the Minister after an economic and social impact assessment has been carried out. I am conscious that the Minister has made changes to the universal social charge in recognition of the enormous public concern about its impact and has placed medical card holders at the lower rate of the charge. However, those changes do not go far enough to ensure the lower paid are not disproportionately hit. It is contradictory and inconsistent to have kicked the measures to curb property tax reliefs to touch under pressure from a lobby group until after an economic impact assessment while bringing this in with immediate effect. If anything should be deferred pending an economic impact analysis it should be the universal social charge.

The Labour Party has said that if elected we would seek to ease the impact of the universal social charge for those most adversely affected as well as ensuring a rebalancing of the tax system in order that high earners and investors would contribute their fair share in a progressive tax system. The recommendation is moderate. It simply requires that an economic and social impact analysis would be carried out in recognition of the burden the universal social charge represents, especially on the incomes of the lowest paid.

An Leas-Chathaoirleach: Is Senator Norris seconding the recommendation?

Senator David Norris: If my colleague allows I would be honoured to second it. It is very much in line with what I have said earlier. There are a series of anomalies. The charge will hit the poorest and most vulnerable sections in society most strongly. The PRSA business was raised earlier. I have been briefed about people who will be brought into the tax net even though they are at or under the level at which a support from the State itself is paid because of their poverty. In other words, their pension would be affected which is absolutely wrong. The amendment meets all those difficulties and gives the opportunity for a review. I strongly urge the House to support it and I am honoured to have been allowed to second it.

Senator Liam Twomey: My sentiments have been expressed by the previous speakers on how the measure will have a shocking impact on the most vulnerable people in society.

Minister for Finance (Deputy Brian Lenihan): The effect of the recommendation would be to reverse the income tax and universal social charge measures taken in the budget. Were the recommendation to be accepted by Dáil Éireann, its impact would be that the social charge would not be in operation and there would be a substantial loss of revenue to the Exchequer. This country would not be able to fund itself and it would not be possible to pay the salaries of Senators.

Senator David Norris: I would gladly yield my salary if it were for that purpose.

Senator Liam Twomey: That may happen anyway.

An Leas-Chathaoirleach: Senator Bacik is the only one who can reply.

Senator Ivana Bacik: I am disappointed in the Minister's response. The changes he has made represent only a small concession and the universal social charge does have a disproportionate impact on the most vulnerable and disadvantaged.

Senator David Norris: Hear, hear.

Senator Ivana Bacik: I am very disappointed he is not willing to agree to this minimal request that the impact of the charge be deferred until we have seen exactly what will be the impact on the lowest paid and the disadvantaged. The very least we could do is to defer the introduction of such a charge until a review has been carried out.

Deputy Brian Lenihan: We do not know yet whether this is part of "The Late Late Show" doctrine and whether the Labour Party would change the measure if elected to office. We know it will not reverse anything that has happened to date, despite all the many eloquent—

Senator Ivana Bacik: That is not true.

Deputy Brian Lenihan: It has been confirmed by Senator Bacik's party on a television programme that there will be no changes to any of the expenditure reductions or tax impositions of the Government. The jury is out on this issue. Judging by what Senator Bacik says, the Labour Party will be repealing the measure, thereby causing a substantial loss of revenue to the State. I wait to see the Labour Party do that.

Recommendation put and declared lost.

Senator David Norris: I move recommendation No. 2:

In page 7, between lines 27 and 28, to insert the following:

"(a) whereby in every instance where "spouse" occurs in this Bill it shall be interpreted as including persons who are legally registered as civil partners;".

This is an attempt to be helpful. It is dealing with the amendments that were consequent upon the passage of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 by both Houses of the Oireachtas. They had certain impacts in terms of inheritance and tax provisions and they hit to the heart of the living experience of a significant body of people in society. I honour my colleagues on all sides of this House and in the other House — I include the Minister in this — who spoke so generously on the original Bill and were anxious to see it brought into effect as quickly as possible. My desk is groaning under requests from people who are in those circumstances to find out when the measures will come into operation. To find out that they will be deferred until the next finance Bill is unsatisfactory.

I made strenuous efforts to find the content of those amendments. My understanding is they have not been drafted. That tells me the degree of significance that is attached to the well-being of the people contemplated under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. My clear information was that those amendments have not been drafted. It is for that reason that they are not available.

I accept the country has been in financial turmoil. I have great sympathy with the situation in which we have found ourselves. The Minister has worked all hours of the day and night. Even though I disagree with some of the measures he has taken, I wish to place on record my

admiration for his integrity and the way in which he has worked. The situation is that it appears that those amendments have not been prepared and that it will not be possible to put them before the House. I am not certain because of the delays that occurred previously, for example, when the decision of the Equality Authority was reversed by the redefinition of the word “spouse” which excluded same-sex couples and there were repeated delays despite promises from the Minister’s colleague, the Tánaiste, Deputy Coughlan. We should do what we can to assist the Government. There might be an intelligent way around the situation instead of seeking to put the whole 150 amendments. I could not possibly do it myself because, as Independents, we have no access to the talents of draftspersons. Instead, I decided to try to do it by examining the definitions. Re-defining the operation of the word “spouse” in the Bill would meet the situation by holding that wherever the word “spouse” occurs, it shall be interpreted as including people legally partnered through the civil partnership Bill. I urge the House to support the recommendation.

Senator Joe O’Toole: I second the recommendation. We have had a long debate on the civil partnership issue over several years. Finally, we took the step which we all welcomed and provided for it legislatively. I do not propose to rehearse all the arguments from that stage. The implementation of that legislation became important and it was believed any issues arising would be dealt with in the course of this legislation. For the reasons the Minister outlined this morning and given the pressure on the Bill, it turns out this will not be the case. We maintain the simplest approach for the Minister would be to accept this recommendation, which holds that in every instance where the word “spouse” occurs it shall be interpreted as including persons who are legally registered as civil partners. This is merely the implementation of the will of both Houses in the spirit of both Houses.

As the Minister stated earlier, the new Government will change certain things and not change other things. This is not an issue of cost but of real substance. Also, it shows a clear commitment. Even if the Minister has some slight difficulties with the wording of the recommendation I call on him to accept it in the sureness and certainty that his successor will introduce the finance (No. 2) Bill and could make appropriate adjustments. In the meantime, the Minister and I would have completed a good day’s work and I appeal to him to accept it for all the reasons put forward in the previous legislation. I am pleased to second the recommendation.

Senator Fiona O’Malley: I was struck by the argument made earlier by the Minister about the consequence of rushing the Finance Bill and that we must accept that it cannot be the perfect Finance Bill. However, it seems to be a simple recommendation. My question is whether it is effective. Whether we accept this recommendation, we have a duty to provide for the organisation of taxation and for all people to be treated equally. It appears to a non-legal person that the recommendation would have the desired effect and make unions the same. I prefer to believe the Minister would support the recommendation if it can perform that exercise. As Senator O’Toole remarked, it would demonstrate a commitment on the part of the Government to regularising all unions such that they would be treated equally, whether same-sex or heterosexual.

Senator Ivana Bacik: Like other Senators, I strongly support the recommendation. The passage of the civil partnership Bill, now an Act, was a highlight for many of us during our time in the House. It had support from both Houses. There is support for the measures necessary to equalise the position of civil partners and spouses in tax law. There is a timing matter because the first civil partnership ceremonies are due to take place from 1 April. People need to know their tax affairs will be recognised in law.

[Senator Ivana Bacik.]

The Labour Party has given a commitment that, if in Government, we would seek to introduce these equalisation measures for tax in the finance (No. 2) Bill. We would seek to ensure these measures were in place before the first civil partnership ceremony was conducted. Senator Norris's recommendation is worth supporting and I would welcome the Minister's support for it. It would clarify the intention of any incoming Government which would be to ensure recognition for civil partners in our tax code. While I realise, as Senator O'Toole suggested, the wording might not cover all eventualities because it only refers to this Bill and not other finance and taxation Bills, it would set down an important marker to those contemplating entering civil partnership. Their tax affairs would be recognised and the necessary measures would be put in place to ensure the equalisation of their status to that of married couples.

Senator Dan Boyle: While I prefer to believe a recommendation of this type would solve the difficulty that arises, I defer to the opinion that if 150 amendments are needed in a finance (No. 2) Bill to make the situation legally watertight, then it seems to be the more preferable option. I hope all political parties commit to passing such a Bill before the start of April. The delay seems to have arisen not so much in the shortage of time allowed for this Bill or the end of this Government but the passage of the original Bill. It is a matter of great regret for me and my party that legislation which we sponsored and encouraged seemed to be subject to greater scrutiny within Government. The provision of parliamentary time was an issue as was the way in which that legislation was debated in the House. Had different treatment been given to the original legislation the necessary provisions would have been included in the Finance Bill.

Senator Frances Fitzgerald: We are hearing more behind the scenes stories about legislation now, but everyone in the House welcomed the civil partnership legislation. I support the recommendation. It is important that we move as quickly as possible towards the consequences that arise in financial terms and they should be dealt with under a finance Bill. The key question is whether this recommendation will move that process along, whether it would be useful and whether it would work in the interim before more detailed work is done. A total of 155 amendments may be necessary but is this something that would be useful in the period before we get to that detailed stage? Would it serve to highlight the intention and the implications which arise from the civil partnership Bill?

Senator Geraldine Feeney: I support Senator Norris's recommendation. I refer to the remarks of Senator O'Malley and the Minister this morning. It is terrible that we are rushing the legislation in this way. During the week, I spoke on the Order of Business in respect of this part of the Bill. I am greatly saddened that we are not dealing with the civil partnership Bill. The Minister may not have been aware — I have been — how much a part of the framing of the civil partnership Bill his contribution was when he was Minister for Justice, Equality and Law Reform. When it passed all Stages in the House last June, the members of the Gallery, which was full, gave the Chamber a standing ovation such was the ground-breaking nature of this legislation. Senator Norris suggested the 150 amendments have not been drafted yet. Is this because it was decided that this part would be left out when the Minister met with the spokespersons on finance from the Opposition parties? Was it the Minister's decision to leave it out or was it a collective decision? I am somewhat surprised and annoyed that this has been left out of the Finance Bill because we were all at one on this matter.

I wholeheartedly support Senator Norris's recommendation. It is important in terms of interpretation that where we have "spouse", it would mean a partner. The Minister is a legal man. Where the word "spouse" appears, could we replace it with "spouse-partner"? Is there any reason we cannot have "partner" alongside the word "spouse", rather than rely on an interpre-

tation? We are all aware that interpretations may change from time to time. It is courageous of Senator Norris to introduce the recommendation because it is holding, useful and meaningful until the finance (No. 2) Bill is introduced. If there is a change of Government and it is of the configuration that the media would have us believe, that is to say, a Fine Gael led Government with—

Senator Alex White: With Fianna Fáil support.

Senator Geraldine Feeney: —the Labour Party as a coalition partner. I did not interrupt anyone.

An Leas-Chathaoirleach: Senator Feeney without interruption.

Senator Geraldine Feeney: As the Minister stated, we got the “Late Late Show” debate from Deputy Gilmore and nothing would be changed. I hope the finance (No. 2) Bill has somewhat more weight than we were given to believe from him on the “Late Late Show”.

Senator Rónán Mullen: I find myself not in a position to support this recommendation although I do not suspect for the same reasons as the Minister.

I also find it odd to hear sweeping references to every Member in this House being in favour of the civil partnership legislation passed last summer. I am sure Senator Hanafin feels like me that we have been cast into the cellar of Seanad memory.

Senator Jerry Buttiner: The Senator might very well be soon.

Senator Rónán Mullen: It may be, of course, that the debate on the legislation in question was run through so fast that some find it difficult to recall how some Members felt.

This recommendation probably teeters on – if not falls over – the brink of unconstitutionality. The Minister rightly expressed some caution this morning about whether another amendment would impact on the status of the Finance Bill as a money Bill. I would also express a similar caution.

The blanket association of the term “civil partner” with the term “spouse” might very well be a justiciable matter. It may lead to the argument that there is an equation being made between civil partnership and marriage. On the other hand, it may be argued that giving similar tax status to civil partnerships as is given to marriage could be such a legislative device that would be accepted by the courts. That would certainly be the intent of the Government and the majority but not a unanimous one of these Houses.

It is appropriate this matter has arisen on the day the Finance Bill is being rushed through the Oireachtas. The civil partnership legislation was also rushed through and I was accused of filibustering at the time. At the time, Senator Regan reminded me he had to speak for two hours on an amendment for another Bill.

Senator Eugene Regan: It was for three hours.

Senator Rónán Mullen: Senator Regan is to be congratulated on his attention to detail.

At the time of the civil partnership legislation, there was a degree of ill-will shown to those who had objections to the Bill and sought specifics on it. There was also a desire to have press conferences and other unseemly and unparliamentary activities.

An Leas-Chathaoirleach: Will Senator Mullen address the recommendation?

Senator Rónán Mullen: The reason I raise this is that I would have liked to have had the opportunity during the civil partnership legislation to put on record how much I would support the granting of certain rights and privileges normally associated with marriage, including in the area of taxation, to non-marital situations. For example, there are cases of people living in a mutually dependent situation, loving and caring for each other with one making sacrifices to their own detriment for the other. It might well be agreeable that a house should be inherited tax free in such cases. However, providing that for same-sex partnerships envisages the imposition of an inequality on other types of relationship situations such as, say, carers or siblings.

The problem is we never got to debate this properly, a regrettable matter. For that reason, it would be all the more inappropriate today if we were to insert this blanket recommendation without properly debating whether it should apply to civil partners only or if there are other categories of relationship to be considered. I do not see how we can put this recommendation without having the debate we never had during the summer.

Senator Mary M. White: I believe that not accepting this recommendation is a failure of the democratic process. While there were several abstentions on the civil partnership Bill, it was overwhelmingly passed by both Houses. I am disappointed that on the last day of this Seanad we cannot be magnanimous in accepting this recommendation.

Deputy Brian Lenihan: This recommendation will not work.

Senator Mary M. White: The Minister is a brilliant lawyer. Why can he not adapt it?

Deputy Brian Lenihan: I am not here as a lawyer. I am here as the Minister for Finance.

An Leas-Chathaoirleach: Senator Mary White should confine herself to the recommendation.

Senator Mary M. White: I would like to see this matter rectified before we finish this evening.

Deputy Brian Lenihan: It is a complex matter which still would have been difficult to rectify even if we had agreed to sit for another week.

Senator Mary M. White: I do not care if we have to sit for another two weeks to fix it.

Senator Eoghan Harris: I was one of the strongest supporters of the civil partnership Bill, so much so I was put up on one website as Gay-Friendly Senator of the Year. While I would like to say I unequivocally support this recommendation, to do so would be hypocritical. I resent the way this Bill has been rushed through this House. It is not the Minister's fault but of those who chivvied and worked up a big media ran-tan to rush it through. I must confess ignorance that I do not know whether this recommendation would work. When one is in a state of ignorance, one has to seek superior authority. I must, therefore, be guided by the Minister and accept that incorporating civil partnership in the Finance Bill would require 151 amendments.

These will be my last words in this House as I do not intend to be around here much longer. I have had a baptism of fire with politics. Edmund Burke once said he had engaged in many great projects with great men that were not improved by the meanest man in the room, as he had something to offer. Imagine how much better this Bill would have been with the benefit of the best minds in Ireland working on it. Already in the few rushed hours in this House, we have seen Senators bring to the surface and amplify subtleties in this legislation. How much better would this Bill have been if it had been given its proper passage of several weeks more?

Senator David Norris: Hear, hear.

Senator Eoghan Harris: The responsibility for rushing this legislation largely resides with the Labour Party. It postures as the progressive friend of the gay community and yet allows a Bill like this to be rushed through with various rights steamrolled over. Shame on the Labour Party. Shame on them.

As it behaves now, so it will behave in any future Government. If Fine Gael finds itself in government with the Labour Party, it must watch its back at all times.

The Minister for Finance is a class act. Fianna Fáil made a big mistake in not making him its leader.

(Interruptions).

Senator John Hanafin: I agree with Senator Mullen that there was not unanimity in this House on the civil partnership Bill and that some of us voted against it.

In the event of allowing the tax breaks suggested, what would be the cost to the Exchequer?

Those of us who voted against the civil partnership Bill found ourselves at the receiving end of vile comments. I understood then how some gay people must feel when they too find themselves at the receiving end of such comments. It was an interesting experience. Unfortunately, there are extremists on every side.

Senator Jerry Buttmer: I understand the motive behind Senators Norris and O'Toole's recommendation. However, the Finance Bill is being rushed through the House not because of Fine Gael and the Labour Party but because Fianna Fáil could not manage to work properly with its coalition partners.

An Leas-Chathaoirleach: We are on recommendation No. 2, Senator Buttmer.

Senator Geraldine Feeney: It is due to the political opportunism of the Opposition parties.

An Leas-Chathaoirleach: Senator Buttmer without interruption.

Senator Jerry Buttmer: The Taoiseach's inability to communicate with his government partners is the reason this legislation is being rushed through the House today. We can find common ground with Senators Feeney and O'Malley in respect of the fact that if the recommendation cannot be accepted, it must be incorporated in the finance (No. 2) Bill. Those in the Green Party deserve great credit and praise for the fact that, in conjunction with other members of the Government, they had the courage to pilot the civil partnership legislation through the Houses. To paraphrase the former Taoiseach, Deputy Cowen, it is never too late to do the right thing.

An Leas-Chathaoirleach: Deputy Cowen is still Taoiseach.

Senator Jerry Buttmer: We must always err on the side of the people. Senator Fitzgerald questioned whether we will achieve what is envisaged in the recommendation and that matter must be addressed. It is important that the consequent changes to the civil partnership Act should be brought forward. There is agreement among the majority of Members to the effect that the spirit and intention behind the recommendation should be supported. It would be wrong for anyone to suggest that Fine Gael and the Labour Party were responsible for the Finance Bill being fast-tracked through the Houses.

Senator Dominic Hannigan: I wish to signal my party's support for the recommendation in Senator Norris's name. When what became the civil partnership Act was debated in the House, we were assured the Finance Bill would contain measures designed to ensure equality for

[Senator Dominic Hannigan.]

same-sex partnerships. I am disappointed the Minister has not had time to ensure the relevant provisions could included in the Bill in a satisfactory way. I recognise, however, that the time available for doing so was limited.

I assure the House that my party will introduce the necessary provisions as soon as it is elected to Government. The Labour Party has a long, proud record on the issue of bringing forward civil partnership legislation. I remind other Senators that when they were spending their time lauding ex-taoisigh such as Deputy Cowen and Deputy Bertie Ahern——

Senator Geraldine Feeney: Deputy Cowen is still Taoiseach.

(Interruptions).

An Leas-Chathaoirleach: Senator Hannigan should speak to the recommendation.

Senator Dominic Hannigan: —and telling us how great these individuals are when the entire country can see the damage they have done, my party was putting forward legislation relating to civil partnership.

An Leas-Chathaoirleach: The Senator should confine himself to commenting on the recommendation.

Senator Dominic Hannigan: I will not take criticism from other Senators in respect of that matter. As already stated, when elected to Government the Labour Party——

Senator Geraldine Feeney: Senator Harris is getting to Senator Hannigan. The latter should watch out because the former is still behind him.

Senator Liam Twomey: Senator Feeney should watch her language.

Senator Dominic Hannigan: —will ensure that the relevant legislative provisions are put in place as soon as possible.

(Interruptions).

Senator Dominic Hannigan: People waited a long time for the civil partnership legislation. They will only be waiting a matter of a few weeks for the necessary provisions to be put in place.

Senator Geraldine Feeney: The Labour Party is victimising people again.

Senator Dominic Hannigan: That is rubbish.

Senator Geraldine Feeney: Not at all.

An Leas-Chathaoirleach: Senator Feeney should desist.

Senator Geraldine Feeney: Senator Harris has the measure of Senator Hannigan.

Senator Jerry Buttner: Those on the Government benches smothered everyone.

Senator Feargal Quinn: I remind the House that I supported what became the civil partnership Act when it was being debated. However, I also supported some of the amendments relating to it that were lost. One of the amendments I wished to support was that to which Senator Mullen referred. I think the Senator is correct in saying that if we are going to make an exception for civil partners, then we must ensure we also include other loving couples. I

refer, for example, to people who could be siblings, children and others. Senator Mullen is correct, on this occasion, in stating that what is proposed seems too simple a solution to the problem before us. I understand from the Minister that it is intended to overcome the problem to which I refer in a more subtle way in the finance (No. 2) Bill.

Senator Jim Walsh: My views in respect of this issue are well documented. On a personal basis, I regret that a guillotine was applied — when we were discussing a fundamental issue of freedom of conscience — in respect of the civil partnership legislation when it was debated in the House. We must be extremely careful when we are making social change. Society is founded on the relationship of marriage, in respect of which benefits obtain within the taxation and social welfare codes as a result of the child-centred nature of the institution. Any dilution of that represents a retrograde step for society in general and also for the State. We must be careful. Why do we give tax breaks to those who are married? The answer is that, traditionally, one parent worked while the other remained in the home to look after the children. It was, therefore, essential to provide such tax breaks in order to ensure the family was protected.

I have misgivings with regard to individualisation, which was introduced to try to encourage women, particularly those who were working in the home, to enter the employment market and fill the abundance of positions that were then in existence. The economic position is completely different now. I would have preferred if the opportunity had been taken to abolish individualisation at this point.

If we are talking about giving to two adults who work and who have independent incomes, tax breaks similar to those which apply in respect of married couples, then questions arise. I am no lover of the Tory Party, but I encourage people to consider the evolution of thinking that is taking place within both the establishment and the Government in Britain at present in respect of the priorities relating to family values and family issues. Much of the evolution to which I refer is based on the research that has been carried out in Britain in respect of this matter. We are discussing this matter in a vacuum because qualitative assessments or evaluations relating to it have not been carried out in Ireland. Before we begin to move in the direction of replicating the rights enjoyed by those who are married for those involved in other relationships——

An Leas-Chathaoirleach: The Senator should be aware that we are not rehashing the debate on the civil partnership legislation.

Senator Jim Walsh: I know that.

Senator Ivana Bacik: The Senator is rehashing it.

An Leas-Chathaoirleach: Senator Walsh should speak to the recommendation.

Senator Jim Walsh: My argument relates specifically to the recommendation before the House, which proposes that those in same-sex relationships be termed “spouses” and that they should enjoy the same benefits as people who are married. As a number of previous speakers pointed out, there are siblings and other individuals who are involved in loving relationships, who share houses etc., and who are completely ignored by the State. The circumstances in which many of these people live are far worse than those in which same-sex couples live. For example, some of them are not in a position to work or whatever. This matter must be considered in a holistic way, particularly if we are to arrive at solutions which will address an issue relating to those in same-sex relationships but which will not undermine the institution on which our society is based, namely, marriage.

Deputy Brian Lenihan: I welcome the spirit in which Senator Norris tabled this recommendation. I understand why the Senator tabled it. However, Senator O’Malley raised a very relevant point at the outset of the debate on this recommendation of which sight has been lost in the subsequent discussion. She inquired as to whether the recommendation achieves the purpose for which it is intended and whether it is technically effective. Unfortunately, it is not technically effective.

I have no intention of taking away from the work done by whomever advised Senator Norris in respect of the recommendation, which states, “in every instance where “spouse” occurs in this Bill it shall be interpreted as including persons who are legally registered as civil partners”. However, the Bill does not cover the tax code. As a result, it does not address, in a comprehensive way, the issues — such as those relating to gifts and inheritances — that arise in respect of capital acquisitions tax. I would have thought that these issues are fundamental in the context of the category of people to which the recommendation relates. What is proposed would not provide these individuals with the kind of tax arrangement to which they are now entitled by virtue of the enactment of the legislation.

I do not believe I should discuss the merits of civil partnership. I am very proud of the fact that when I served as Minister for Justice, Equality and Law Reform, I prepared the bulk of the civil partnership legislation and brought it to an advanced stage of readiness. I had discussions with many individuals, including Senator Boyle, in respect of that particular subject. The fact is, however, that the Houses have voted on the principle of the issue. I do not believe, therefore, that we should re-embark on a debate on that principle. The matter that was required to be dealt with here was the consequential implementation of the necessary tax changes. When the legislation finally came before the Houses, I recall, as Minister for Finance, being consulted on the matter and realising that it was not possible to mix money Bill provisions with those contained in the civil partnership legislation.

The matter under discussion will fall to be dealt with in the next finance Bill. It is a matter of regret to me that it is not being dealt with in the legislation before the House. That is because the necessary material is not yet ready. It would have been ready within a matter of weeks. Let us be clear about the matter. Seanad Éireann is sitting today because the Government and, in fairness, the Green Party, wanted it to do so. Fine Gael and the Labour Party took the view that the Seanad should only devote one day to its consideration of the Bill. That was their stated decision in the discussions which took place in my Department.

Senator Rónán Mullen: The Minister is going somewhat easy on the Green Party.

An Leas-Chathaoirleach: The Minister, without interruption.

Deputy Brian Lenihan: To be clear, the Green Party agreed to the Saturday sitting. Seanad Éireann’s revising function is its most important function because issues of principle are decided upon in Dáil Éireann, by and large, and if the Seanad disagrees on a principle with the Dáil, the Dáil has the power to reverse the principle after 90 days in the case of a Bill other than a money Bill, and if the Seanad recommends the rejection of a principle, it can be rejected by the Dáil. One of its major functions is the work of revising, which is why the Government took the view it would be valuable in the context of a final provision to have a day considering the Bill in detail in the Seanad.

As it happened, it gave my officials an opportunity to go through the whole Bill to see whether there were other matters they wanted to have corrected. While they did not want to have anything corrected, that is not the point. They got the opportunity to do what they would not have otherwise have had the opportunity to do had the Seanad considered all stages on Friday. I am simply explaining the history of why we are sitting on a Saturday. I am also making

the point that were we to have sat another week, it might have been possible to bring together the 150 amendments Senator Norris would require to effectuate his intention.

If one accepted the recommendation at face value, all it would do is provide for this wherever it occurred in this Bill, not elsewhere. As one can see from the provisions of the Bill, that would be limited enough. It had been my intention to include legislation in the Bill in regard to the tax treatment of civil partners, but those legislative changes had to be deferred to facilitate the accelerated timeframe for the drafting of the Bill. Again, they are not fully ready yet. Senator Norris raised the issue and I want to give the precise official reply on it, which is as follows. I am advised that the draft legislation has already been largely prepared. As I stated in the Dáil on Tuesday last and in my Second Stage speech in this House, it can and should be dealt with speedily by the new Government. Indeed, it may well be dealt with by the outgoing Government, with agreement after the election from the other parties in order that it could be expedited even further. If the Bill had been undertaken in the normal timescale, the civil partnership provisions would have been included.

I cannot support the recommendation because the relevant changes to this Bill with regard to civil partners will cover income tax, capital gains tax, capital acquisitions tax and stamp duty as well as dealing with any necessary changes needed to all other taxes and duties. It is better to legislate in a comprehensive way for the changes required rather than have piecemeal amendments inserted at this stage to particular parts of the 2011 Bill when we will still have to revisit the whole subject in a comprehensive way.

I want to give the assurance to anyone who is entering civil partnership that it is intended that the legislation, once passed, will apply as respects income tax for the whole of this year and subsequent years, and as respects gift tax, inheritance tax and capital gains tax from 1 January this year.

Senator Joe O'Toole: Hear, hear.

Senator Rónán Mullen: The Minister is in government.

Deputy Brian Lenihan: I am giving notice of that now. By doing so, I am giving power to the Legislature in some weeks time to use those dates. As Members know, when the Minister uses certain words in a formula like this, it creates the capacity to legislate retrospectively. I am saying this now, on the record of the House, in order that the Senator's recommendation has not been in vain. He has given me the opportunity to say it will apply with retrospective effect, which is also of value.

The Revenue Commissioners are working on adapting their various systems and, for the information of the House, I would like to give some information in this regard. The Revenue Commissioners have constituted a project group to oversee all aspects of their activities in regard to the introduction of civil partnership and the provision of tax treatment of civil partners equivalent to that of married couples. The group traverses all of Revenue and involves the following: identifying all relevant items of legislation requiring adaptation, which work is said to be largely done; gearing up Revenue customer services in terms of awareness and updating of leaflets, forms, counter services, telephone and online services, both PAYE and self-employed; capital acquisitions tax; reviewing collection customer services for civil partners; reviewing all Revenue material on www.revenue.ie; adapting IT systems to cater for civil partnerships; and raising awareness at human resources level to cater for Revenue staff who are interested in civil partnership. The training branch is extending training services to include training for civil partnership, and the regional and large cases divisions are covering front-line staff and providing local expertise. While I am not sure the involvement of the regional and

[Deputy Brian Lenihan.]

large cases divisions will warm the heart of any civil partners who come to their attention, they are focusing energies on them as well.

The Revenue website has a message in this regard which states that to facilitate the accelerated timeframe for passing the 2011 Bill, the legislative changes to give effect to the taxation changes have been deferred until after the formation of a new Government. The Revenue website states that the draft legislation has been prepared, although my official advice is that it has been largely prepared, and includes all necessary changes together with the proposed date or dates on which such changes take effect. In general, all changes will have effect for the year of assessment 2011. It is important to note that until the legislation is passed, existing provisions continue to apply. The Revenue website will continue to be updated as more information becomes available. Of course, based on what I have just said, it will be possible when the legislation is enacted to give it retrospective effect.

Senator David Norris: I welcome very much what the Minister has said, his gracious manner of doing it and the significant additional information he has placed before the Oireachtas. For that reason, I believe it was worthwhile tabling the amendment. I have been here the entire day for recommendation after recommendation, as has the Minister. From my point of view, and some of my colleagues agree, in terms of its practical effect, the Minister's announcement that this will be capable of retrospection and will have legal effect because of the words the Minister has uttered in Seanad Éireann today makes this the most important contribution in the entire debate because it will actually have an effect, even though my amendment will fail. I am not worried by that because the sense of it has been strongly endorsed by all sides of this House, although not unanimously. That is very important and I thank the Minister very much for it.

I do not believe it will be necessary to call a vote on this recommendation as it would be futile because the vote would be lost. I do not believe in pyrrhic victories. We have won the most important moral victory here today.

Senators: Hear, hear.

Senator David Norris: I am delighted we have done so. I am particularly heartened the Minister had an opportunity to make this contribution towards the end of his period in office as Minister for Finance.

Regardless of whether I agree with them, I am delighted the stirring words of Senator Eoghan Harris echoed around this Chamber.

Senator Geraldine Feeney: Beware of the Labour Party.

Senator David Norris: It was a remarkable contribution and, while I did not agree with everything in it, my goodness, that kind of rhetoric is what we need in this House. I hope he will find an opportunity to stand, perhaps even in a constituency close to my own heart.

Senator Rónán Mullen: In Dublin South.

An Leas-Chathaoirleach: Will the Senator come back to the recommendation?

Senator David Norris: I will. The Minister made generous reference to my advisers. Perhaps the inadequacy of the amendment would have indicated my adviser consisted of myself. I was

only attempting to have this matter ventilated in the kind of way it has been and to see whether I could tease the Minister into making that kind of statement. I am very glad he did so.

It raised some other issues with which I would like to deal. It was stated that guillotines were involved, which was not the case. What was involved was a filibuster. I am glad to have the opportunity——

An Leas-Chathaoirleach: We are straying from the recommendation.

Senator David Norris: I am dealing with this matter which was raised and dealt with *in extenso*. It relates to this very clear situation.

An Leas-Chathaoirleach: I cannot see how it does.

Senator David Norris: Some 75 amendments were tabled, all with exactly the same wording. Vote after vote was called, with the facilitation, regrettably, of some of my colleagues. That could not possibly have added any intellectual growth to the argument. If that is not a filibuster, I do not know what is.

Senator Rónán Mullen: Senator Norris's memory is faulty.

Senator David Norris: I want to address another matter which comes directly from this, namely, the question of the constitutionality of this amendment and the word "spouse". My colleague is quite wrong in what he said about its constitutionality, and this can be easily demonstrated. If it were not so, it would not have been necessary for the former Minister for Social and Family Affairs, Deputy Mary Coughlan, to intervene to reverse the definition that existed which was capable of being interpreted in this way. There is no question whatever of a lack of constitutionality, although having heard from the other side of the House a lament for those days in which a woman's place was in the home, I am not surprised we have the same kind of antediluvian antics from people who were opposed to this.

Senator Rónán Mullen: That was not actually said.

Senator David Norris: I am very glad this matter has been raised. It would, perhaps, have had a slightly better chance if we had thought — we did, but it was too late before bringing the recommendation before the House — to insert the words "in addition to all other related Acts" in this Bill. However, I was glad that, even though the word "spouse" did not appear with the frequency that might have supported my recommendation, it did at least appear a couple of times. How embarrassing would it have been if I had tabled this recommendation and the word "spouse", for technical reasons, had not appeared in the Bill at all?

I will end on a positive note. I thank my colleagues for supporting this recommendation and, in particular, the Minister. It is a positive and an historic recommendation, but I will withdraw it in the light of what the Minister said.

Recommendation, by leave, withdrawn.

Senator Alex White: I move recommendation No. 3:

In page 31, between lines 11 and 12, to insert the following:

"(11) Each specified institution shall be required, within 3 months from the passing of the *Finance Act 2011*, to submit to Dáil Éireann details of bonuses paid to its officers,

[Senator Alex White.]

employees or contractors between 30 September 2008 and the date of passing of the *Finance Act 2011*, including the amount of the bonuses in each case.”.

Colleagues will see that this recommendation has been modified somewhat from the one we put forward and withdrew on Committee Stage. We are now proposing that it be inserted in section 3 of the Bill which deals with the universal social charge.

The Minister had some concerns as to the relevance of this issue in the context of a finance Bill. However, it appears he has rendered it entirely relevant by his introduction of a provision in section 3 as a means of taxing bonuses. If there is any question of shoehorning a matter into the finance Bill, the Minister has led the way in that regard by shoehorning, for good reasons, the issue of bonuses in order that they can be taxed in the manner which he proposes.

Deputy Brian Lenihan: Which recommendation is the Senator discussing?

Senator Alex White: Recommendation No. 3. I am proposing to insert a provision in section 3, rather than the stand-alone recommendation proposed on Committee Stage, to take account of some questions raised about its relevance and bring it more into line with the Bill in terms of its structure and scheme. It deals with the issue of information on bonuses being paid by the specified institutions. The Minister will see that we have adopted the phrase “specified institutions” which is in line with the provisions of section 3. We are also dealing with the limit of €20,000 because that is the figure provided for in the section. The recommendation is entirely in line with the scheme of section 3 and the Bill.

The basis for this proposal is that there should be information available to the Dáil on the bonuses being paid. I do not propose to rehearse the issues relating to bonuses as there is a wide degree of consensus on that substantive issue. This recommendation proposes that information be made available by the specified institutions to the Dáil not within 30 days as we originally proposed but within three months. In all the circumstances, I respectfully suggest this proposal is narrow enough in its remit and not something that could be regarded as disruptive to the workings of government. It would be a requirement imposed on the specified institutions to bring forward this information and submit it to Dáil Éireann. For that reason, I commend the recommendation to the House.

Senator Dominic Hannigan: I second the recommendation.

Senator Dan Boyle: When the recommendation was moved on Committee Stage this morning, I generally spoke in favour of it but said I believed the wording and placement were incorrect. I am satisfied that the wording has been dealt with and the suggested inclusion of the recommendation in section 3 conveys the sense of what Members sought to achieve on Committee Stage. I am happy to be a sponsor of the recommendation.

Senator Liam Twomey: I support the recommendation. The reason many of the banks and financial institutions are either owned or majority owned by the State is the reckless decisions made in a short period of time. Many of these decisions would have been based on the bonuses being achieved for the work being done by the individuals concerned. The fact that the Government moved very slowly on this issue when it first arose has led to a poor public relations outcome for it with regard to bonuses paid to bankers. I hope this recommendation will be passed and that the Minister will move quickly on the issue as it is an important one. He has acted on the taxation issue, but it is important, from the point of view of the accountability of

institutions which we own, either partially or fully, that the Houses of the Oireachtas have an idea of what is happening in them.

Senator Joe O'Toole: I support the recommendation. As we discussed it at length this morning, I will not rehearse the arguments. The Minister will recall that I said I had a difficulty with the workability, not the objective, of the original recommendation. Senator Alex White pointed this out too. I am particularly pleased that this recommendation refers to the details of the bonuses paid, which I consider important. It is not just the quantum of the bonus paid but where it originated and how it was implemented. This is a positive, progressive and worthwhile recommendation and I hope the Minister will accept it. It is helpful and would not create a cost for the State. It would be seen that we were listening to ordinary folk on the street.

Senator David Norris: I support this important recommendation, one that has been well worked out in terms of openness, accountability, transparency and all the other buzz words used. People are entitled to know the amount of bonuses paid. It is desirable and in the public interest to have this information. I would have had a greater difficulty if there had been a broad brush attempt to restrict completely the type of bonus paid. While that is, clearly, applicable in the Irish situation, particularly in those institutions which have let the country down so badly, it is nuanced. With regard to the operations of certain international companies in the International Financial Services Centre and so forth, we do not wish to drive capital out of the country. It is not an insult and does not make a great difference to the people if international companies wish to pay the global rate to their employees. We must maintain employment in the International Financial Services Centre in so far as possible. I, therefore, strongly support the recommendation.

Senator Niall Ó Brocháin: This is an important recommendation. It is what the people want and would enhance the finance Bill. Therefore, I support it.

Senator Rónán Mullen: As I said this morning, there is a great deal of anger among the public about the bonuses paid. Undoubtedly, they were not deserved. From now on, there will be a major tax on such bonuses, which is most welcome.

Senator Norris expressed concern about bonuses being acceptable in certain situations, if I understood him correctly, but the recommendation is not about that; rather it is about accessing information on something that took place in the past. It is about eaten bread, that is, money paid out in the period between 30 September 2008 and the passing of this Bill.

I said this morning that I had concerns about the retrospective nature of the recommendation and that while it contained something useful, it might be in the wrong place. I am still convinced that is the case and that there is something not quite right about it. The recommendation is investigative. It is the type of investigation I support, but it is an issue I would prefer to have teased out at an Oireachtas committee. I am open to correction, but I do not believe it is the role of legislation merely to facilitate the outing of certain information, however desirable it might be, on an event that took place in the past or a loophole which we have now moved to close in legislation.

I am not convinced of the merits of the recommendation. I am not convinced about what it would do beyond information gathering. The Green Party supports it and I certainly would like to call the Government's bluff and see a recommendation go from this House to the Dáil. However, it would be demeaning to the Seanad if we were to do that with a recommendation that was not worthy of consideration in the Lower House. I do not believe the recommendation meets that test. Although I deplore the payment of bonuses inappropriately and would support

[Senator Rónán Mullen.]

an examination of information being made available on the payment of such bonuses in the past in an appropriate forum, this is not the moment or the place in which to facilitate that investigation. In fact, I do not believe it is the role of this legislation to seek to achieve that now.

Senator David Norris: Well, I do.

Senator Frances Fitzgerald: I think the Minister will agree that the information about bank bonuses has come out in a drip feed manner in recent years. The public continue to be horrified at the information that has been emerging. As a majority shareholder in many institutions, does the Minister have access to all the information in respect of bank bonuses?

Senator Ivana Bacik: This recommendation is important and it has merit. In answer to Senator Mullen, I would say it makes an explicit link between the date of the bank guarantee and the date of the passing of the Bill in respect of the information that is required on bankers' bonuses. It will have a chilling effect on the payment of such bonuses in the future. It is also information the public deserves to know concerning those State-supported credit institutions that are specified in this recommendation.

Deputy Brian Lenihan: The only merit I see in this recommendation is that it would delay the general election by a number of weeks. The recommendation is clearly not a money Bill recommendation. That has been clear since this morning. That is not a matter for the Chair in this House. The Ceann Comhairle would have to make a ruling on that in due course because he determines that particular issue by way of certificate. This Bill is certified to be a money Bill. Were it to go back to the other House and were it not to be so certified in the context of the consideration of this recommendation, then a committee of privileges would have to be established under the Constitution to determine the issue. This involves the President and the usual constitutional procedures. That would lead to a considerable delay.

It is very attractive. We are all against original sin. We are all against bonuses. I heard Senator Twomey mention the fact that we had been very tardy about this and that this was a problem with our public relations. We were not tardy about this at all. Within a few weeks of the guarantee being given, the necessary statutory orders were adopted in both Houses providing that no more bonuses could be paid. That has been the position in 2009 and 2010. I explained earlier today that any bonuses which had been paid had been paid on foot of retrospective vested rights that were already in existence. This recommendation seeks to find out all the information about them. Quite an amount of information has already been in the public domain and there is nothing to stop an Oireachtas committee probing further into that, as Senator Mullen outlined.

As shareholder of the two main banks, I have obtained an amount of information, although I must say that the process of eliciting that information can take time because there is quite an amount of it. The amount of information sought in this recommendation is absolutely extraordinary. Acceptance of this recommendation would mean that information would have to be provided concerning all employees of the credit institutions in respect of bonuses they may have received. This would cover staff from the low paid to directors, covering persons such as those working in call centres who largely rely on commission for their income. A enormous number of persons would be discovered in any disclosure. It would be an intrusion into the privacy of a great many of them, which would be fundamentally unfair, and there would be possible constitutional doubts about it. Given the scope of this exercise, I fail to see how it

could be completed in three months. That is all I have to say about the recommendation at this stage.

Senator Alex White: Section 531AAD(2) as inserted by section 3(1) contains an exclusion which states: “This section does not apply in respect of a relevant employee to whom or in respect of whom relevant remuneration of not more than €20,000 is awarded during a tax year.” The exclusions in the section would apply equally to this particular provision in respect of information. This is information being made available to Dáil Éireann. If there is a concern as to whether this would be worthy for certificate from the Ceann Comhairle——

(*Interruptions*).

Senator Alex White: I do not usually get chirpy about this sort thing, but the Minister has raised an extremely important issue in respect of whether this should be certified as a money Bill. That matter can be dealt with in the Dáil in the next hour but it cannot be dealt with here. If there is a question mark over whether this particular aspect could or could not attract a certificate from the Ceann Comhairle, that can only be resolved there. It ought not to constrain this House in putting through a recommendation we think is important. If the Minister has that concern, he can raise it in the Dáil this evening and it can be dealt with. If there is a question mark over the certificate, it can only be resolved there.

It does a disservice to this House at this late stage to say essentially that we cannot pass a recommendation in respect of such an important question, because of a constraint that can only be dealt with somewhere else. Let us have our debate in here.

Deputy Brian Lenihan: It must go before the House as a recommendation.

Senator Alex White: It is in here as a recommendation and the Minister can deal with it in the Dáil. The Dáil is ready to sit at 8 p.m. and any concerns of the Minister can be raised there. I am sure the Ceann Comhairle will make a ruling, as he is required to do. That should not constrain the Members of this House from passing this perfectly reasonable proposal.

There has been very little objection of substance by the Minister to what is being proposed here. He is annoyed with it, but that is fine. This is the business we are here to do. We are an important element of the Oireachtas and there is strong support for this proposal, although I do not know whether there is majority support. We should not be told with a wagging finger that this must be dealt with under the rubric of a money Bill, that it has nothing to do with the Minister and that it must be dealt with in the other House. Let it be dealt with in the other House.

Deputy Brian Lenihan: I did not say that, but there are important implications about whether a Bill is a money Bill. If a Bill is a money Bill, the President is obliged to sign it. If the Bill is not a money Bill, the President can refer it to the Supreme Court for advice on constitutionality. Therefore, there is a significance in respect of a money Bill outside this House. It is clear, from the point of view of the public interest, that this Bill is enacted as quickly as possible. The risk of a presidential reference would be a serious issue that I would have to consider as Minister were the Bill to be declassified as a money Bill.

It is not simply a matter of me wagging my finger at this House; far from it. We have not even considered how the Seanad has to reconvene in the event that the recommendation is that the Bill is not a money Bill. All the other recommendations could be accepted by the Dáil without further reference to the Seanad. There is a question about this recommendation, which

[Deputy Brian Lenihan.]

is whether the Seanad would have to meet again to consider the consequential recommendation, because it would be then be an amendment from the Dáil. It is not a matter of wagging fingers. There are serious constitutional issues involved in changing this Bill. The Chair cannot give a ruling on it here and it would be determined elsewhere. I accept that. The Senator is entitled to make his points, but I am also entitled to make mine.

The fundamental point remains. Much of this information has already been provided by way of reply to parliamentary questions. One major institution has had to apologise for the inaccurate supply of information for parliamentary questions. It is quite open to the incoming Dáil and Seanad to provide for some form of investigation through an Oireachtas committee. All that machinery is in place and we are risking the Finance Bill 2011 on this issue. It does not make much sense to me. I do not believe the electoral mileage the Senator will generate from this really justifies the distance he is running.

Senator Liam Twomey: I think the Minister is the one who is bluffing.

Senator Alex White: The Minister is talking about weighty issues, yet his remarks tail off. I am very happy to have a political ding dong if he wants one.

An Cathaoirleach: We are talking about recommendation No. 3 here.

Senator Alex White: Exactly. We are talking about a question of the status of the Bill. If we want to have the political stuff, we can have that as well. Has the Attorney General raised a concern in respect of this recommendation or is the Minister flying on this one himself?

Deputy Brian Lenihan: I will discuss the matter with my officials. We have not taken the formal view of the Attorney General.

Recommendation put:

The Seanad divided: Tá, 25; Níl, 26.

Tá

Bacik, Ivana.
Boyle, Dan.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Cannon, Ciaran.
Coffey, Paudie.
Cummins, Maurice.
Dearey, Mark.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.

McFadden, Nicky.
Norris, David.
Ó Broin, Niall.
O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Níl

Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.

Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Harris, Eoghan.
Leyden, Terry.
McDonald, Lisa.
Mooney, Paschal.

NÍL—continued

Mullen, Rónán.	O'Sullivan, Ned.
Ó Domhnaill, Brian.	Ormonde, Ann.
O'Brien, Francis.	Walsh, Jim.
O'Donovan, Denis.	White, Mary M.
O'Malley, Fiona.	Wilson, Diarmuid.

Tellers: Tá, Senators Dominic Hannigan and Alex White; Níl, Senators Camillus Glynn and Diarmuid Wilson.

Recommendation declared lost.

An Cathaoirleach: Recommendation No. 4 in the name of Senator Regan and Senator Twomey arises out of Committee proceedings.

Senator Eugene Regan: I move recommendation No. 4:

In page 167, line 7, to delete “accounting periods” and substitute the following:

“a company which sets up and commences a qualifying trade”.

This is another technical recommendation which I propose in order to correct oversights in the Bill. Previous amendments have been rejected.

Section 486C of the Taxes Consolidation Act 1997 provides for relief from tax for certain start-up companies. There is a three-year tax exemption for start-up companies which do not earn profits of over €320,000. There have been changes in that provision so that at the end of the three-year period companies must now pay a certain amount of PRSI to create certain employment, which is laudable.

The question is whether it was intended — I do not think it was — that this would have retrospective effect, that those who started a company in 2009 or 2010 would now find that they have additional conditions to meet which were not in place when they first availed of this scheme. It was a three-year tax break whereas now they find, having established a new business, that they have conditions retrospectively applied to them. That is by reason of section 34(2) of the Bill, which states: “Subsection (1) has effect in relation to accounting periods beginning on or after 1 January 2011.”

I would point out to the Minister that there is reference in the Bill to “a company which sets up and commences a qualifying trade in 2011”. I think that provision was intended to be carried forward generally.

The recommendation is not to have the reference to accounting periods beginning on or after 1 January 2011, but rather to have reference to a company which sets up and commences a qualifying trade beginning on or after 1 January 2011. The recommendation is designed to correct what I think is an oversight regarding a retrospective effect, which is apparent from the wording of this provision and which was not necessarily intended.

Senator Liam Twomey: I second the recommendation.

Deputy Brian Lenihan: This is a highly technical issue. Senator Regan suggests there is a retrospective aspect to revising the basis on which the relief is granted for companies already eligible for relief in respect of a trade set up last year or a previous year. I would not accept that this is the case as the changes apply only for accounting periods in the future.

[Deputy Brian Lenihan.]

Companies which began a qualifying trade in 2009 or 2010 will obtain relief on the old basis for profits earned in accounting periods commencing before 2011. There is no question of reducing the relief for these earlier accounting periods. If that is Senator Regan's concern, I can address it. He might want to clarify that.

Senator Eugene Regan: That does not deal with it. Companies which started in 2009 or 2010 would have three accounting periods in which they would have a legitimate expectation to be exempt from corporation tax. It was for a three-year period. By virtue of the provision referring to accounting periods beginning on or after 1 January 2011, they are caught by the provisions of the change in this section. The wording should be changed from "accounting periods" to "a company which sets up and commences a qualifying trade", beginning on or after 1 January 2011.

Deputy Brian Lenihan: The main burden of Senator Regan's party's criticism of the Finance Bill has been that it has not done enough to focus on jobs. In fact, the proposal as formulated does just that because it states that in future, the relief can be claimed where a job creation element is involved.

Senator Eugene Regan: That is to misinterpret what I said. I specifically stated that it is laudable to have a job aspect to this relief. However, it is not intended — I do not believe it can be legitimately intended — to apply retrospectively to companies that qualified for this exemption when they started business in 2009 or 2010.

An Cathaoirleach: I remind Senators that this is Report Stage, not Committee Stage. Does the Aire wish to—

Deputy Brian Lenihan: There now is mutual comprehension between Senator Regan and I but I do not accept it is retrospective to change the terms in the future to give a greater employment focus on the relief.

Question, "That the words proposed to be deleted stand," put and declared carried.

Recommendation declared lost.

Question, "That the Bill be received for final consideration," put and declared carried.

Question proposed: "That the Bill be returned to the Dáil."

Question put:

The Seanad divided: Tá, 30; Níl, 20.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carroll, James.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Dearey, Mark.

Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Harris, Eoghan.
Leyden, Terry.
McDonald, Lisa.
Mooney, Paschal.
Norris, David.
Ó Brocháin, Niall.

Tá—*continued*

Ó Domhnaill, Brian.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.

Ormonde, Ann.
Quinn, Feargal.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

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

McCarthy, Michael.
McFadden, Nicky.
Mullen, Rónán.
Phelan, John Paul.
Prendergast, Phil.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
Twomey, Liam.
White, Alex.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Eugene Regan.

Question declared carried.

Senator Liam Twomey: We have just had the last vote in the Seanad before the general election is called on Tuesday, even if the Minister tried to call our bluff on the bankers' bonuses. The legacy of former taoisigh Deputies Bertie Ahern and Brian Cowen and even the new boy, Deputy Micheál Martin, is not the finest period for this country or for the Dáil and Seanad.

Senator Geraldine Feeney: The Senator should be a bit gracious.

Senator Liam Twomey: We will finish this the way Fianna Fáil wanted.

Senator Jim Walsh: Where is Enda?

An Cathaoirleach: A word on the Finance Bill please.

Senator Jerry Buttimer: I would be embarrassed if I was in Fianna Fáil.

Senator Liam Twomey: We have seen the passage of another Finance Bill that will inflict more hardship on the people of Ireland and the Minister may justify these harsh budgets——

Senator Jim Walsh: Senator Twomey should be honest. He supported the Bill; Fine Gael wanted it brought in. Without Fine Gael and Labour Party support, this Bill would not have been passed. We should be thanking Fine Gael and the Labour Party for the fact the Bill is going through the Oireachtas.

Senator Geraldine Feeney: Hear, hear.

Senator Liam Twomey: Our economy has been badly damaged——

Senator Jim Walsh: Is this the new politics?

Senator Jerry Buttmer: Fianna Fáil represents the old politics, the failed politics.

An Cathaoirleach: We have finished with this. If this continues, I will ask the Leader when we are sitting again.

Senator Liam Twomey: The Minister is not solely responsible for what has happened to our economy. Former taoisigh Deputies Bertie Ahern and Brian Cowen and former Minister Deputy Micheál Martin have collective responsibility for what has happened to the economy in the past three years.

An Cathaoirleach: Senator Twomey must address his remarks through the Chair. We are dealing with thanks following passage of the Finance Bill. We are not making speeches now. If that happens, I am putting an end to it.

Senator Terry Leyden: Senator Twomey is playing to the gallery.

An Cathaoirleach: I asked the spokesperson for each group to say a few words and that is all.

Senator Liam Twomey: I accept that Members opposite may be touchy because they must face the people in four weeks time.

An Cathaoirleach: I will call Senator Norris. I ask Senator Twomey to be brief.

Senator Liam Twomey: Members on the Government side should stay quiet when other Members are speaking. There has been a sense of arrogance displayed by Government representatives during the day. Perhaps they should stand up and make speeches themselves if they wish to do so.

An Cathaoirleach: They will not. I have allowed one speaker from each group.

Senator Liam Twomey: They should show courtesy when Members of the House speak and they must accept responsibility for what they have done to the country.

Senator Terry Leyden: This is not the time to make a speech.

Senator Liam Twomey: There is never a wrong time and I am trying to speak on the Finance Bill, but it is clear Members opposite are not happy for me to speak about the impact of the Bill.

An Cathaoirleach: It has never happened that people have made political speeches at the end of a Bill. Senator Twomey has made his point.

Senator Liam Twomey: We have made speeches on the Finance Bill on many occasions and pointed out the impact it has had on those affected. There is a sense that somehow we must not acknowledge the hardship this Bill will inflict on people.

(Interruptions).

An Cathaoirleach: Senator Twomey must resume his seat. He should not cause disorder in the House on our last sitting. I am calling Senator Norris. Senator Twomey has made his point.

Senator Liam Twomey: I have never been given the opportunity to say what I wish to say here.

An Cathaoirleach: The Senator has been talking for three minutes.

Senator Geraldine Feeney: Fine Gael and the Labour Party put the gun to the head of the Government to bring in this Bill.

Senator Liam Twomey: This is the sort of thing that gives this House a bad name.

An Cathaoirleach: We have finished the Bill. All Second Stage speeches have been made and we have gone through Committee, Report and Final Stages. That is it, so I am calling Senator Norris.

Senator Liam Twomey: I have not——

An Cathaoirleach: The Senator must respect the Chair.

Senator Liam Twomey: I respect the Chair but the Cathaoirleach disrespected me.

An Cathaoirleach: I respect every Member of this House.

Senator Liam Twomey: I conclude by thanking not just the staff of the House, but every civil servant in every Department for the work they do. I wish the Minister well. The problem with our political system is it is very adversarial and we acknowledge that in the debate. That is how the system works.

An Cathaoirleach: Thank you.

Senator Liam Twomey: It is important I take the opportunity to wish my colleagues in Fianna Fáil the best. I also wish the best of luck to my colleagues on this side of the House.

Senator David Norris: As someone who has been here all day and who has taken part in all of the discussion on the Bill, I would like to act in accordance with the traditions of the House and pay tribute to the contributions of Members on all sides of the House, who made this important debate come alive. Every side of the House was involved — Fine Gael, the Labour Party, Fianna Fáil, the Green Party and Independent Members — and together we have made a contribution to the Bill to which the Minister listened. I say this in a non-partisan way, but I regret that we could not affect the universal social charge. This is an issue that is deeply worrying and I hope the positive sentiments expressed by Members regarding the most vulnerable people in the country will be made good by the incoming government. Members have certainly given hostages to fortune here on the record of the House.

I have voted with my colleagues on every recommendation, but I am realistic and know if I had voted with the Government, it would not have made any difference. Unlike one vote where one of my colleagues made a difference, my vote did not make a difference. However, I wanted to give moral support to the operation of politics in this country, which is important. It was necessary that this Bill go through, since the gun had been put to our head and it had to be passed. I very much wish there had been more reflection — I almost said “mature reflection” — on this matter. However, I accept what the Minister said and would like to place that on the record. I accept that the civil servants involved in the preparation of the Finance Bill worked hard on the amendments which flowed from the passage of the civil partnership Bill, but there was not time to have them prepared for this. I was told the amendments were not

[Senator David Norris.]

prepared, which was technically true, but it is important to make it clear this makes no slur on the civil servants. They were working hard on the issues and a matter of a week or two would have meant they would have had the amendments prepared.

We need not feel that we have wasted our time here in empty debate, because many points were taken up which will be adhered to by the incoming government. One thing has happened, namely, that those people who will enter into civil partnership when the Act commences in April will be in a situation where that will be made retrospective. Therefore, they will not be penalised in taxation terms. I salute the Minister who, with his legal knowledge, went to the trouble of placing that on the record of the House so that it can be done. This may appear small to some people, but it was a factual and real achievement of this House, which will have an impact on people's lives. That is what policy is all about. Without those amendments, the civil partnership Bill would be to a certain extent an empty letter. It would give people licence for a party or celebration, which is wonderful, but it would not give them any practical advantage or increase in their human and civil rights. I think we have done a good day's work and I hope we will end in amity and dignity and go out to fight the election on issues rather than personalities.

Senator Alex White: I agree with those sentiments. There is much with which I disagree with regard to what the Minister said today in respect of our debate on the Bill. However, if all goes to plan on Tuesday, we will have a considerable opportunity to debate and contest all of those questions in the coming four weeks. That is where the debate belongs at this stage. This Oireachtas has come to an end. There should be an element of dignity when the Oireachtas or any House of Parliament finishes its business, which is what we are doing. Significant work was done today and yesterday in this Chamber on this Bill and careful consideration was given to it. Somebody mentioned "mature reflection", which recalls another era, but we are about parliamentary business here and the Minister has a good appreciation of parliamentary business and its importance. I thank him for that. I want, in particular, to thank the officials in the Department of Finance for their careful approach to the business at hand.

This is probably the last occasion where we will have an opportunity to say goodbye. On behalf of myself and my colleagues in the Labour Party, I wish the Cathaoirleach well. I do not know what his intentions are, but if he intends to run for election again, I wish him well. I thank him for his co-operation and for the great sense of humanity he has demonstrated in the Chair.

Senators: Hear, hear.

Senator Alex White: I have seen that humanity not just publicly across the floor, but also in other business we have had to transact, not all of which was easy. The Cathaoirleach has carried out his duties with great flair, understanding and decency and deserves the thanks of the House. I mentioned yesterday that the Clerk and Clerk Assistant deserve our thanks and appreciation, as do all the people who work in this building and support us in the work we do.

I have tended not to thank Ministers when they come to this House, because I think they are only doing their job. Also, I do not believe most of them expect to be thanked in that sense, although common courtesy is important. Ministers and Ministers of State are doing the job the people have entrusted them with and do not require to be thanked at the drop of a hat. I am sure the Minister understands what I mean and that not thanking him is not meant as a courtesy.

I wish my colleagues on all sides of the House well, both those who are retiring and those running for election to the other House. Mention was made of the Dáil constituency of Dublin South earlier and it was suggested another candidate will arrive into it. We are thinking of renaming the constituency Terminal Two, because there have been so many arrivals and departures to the constituency in the past year and a half. However, we will have that election.

Senator Donie Cassidy: I hope the Senator gets a seat.

Senator Denis O'Donovan: Do not miss your flight.

Senator Alex White: I also thank the Leader, the leader of the Fine Gael Party and the leader of the Independent group. I am not sure we should refer to him as a leader, although that is what he calls himself.

Senator David Norris: There is no leader. The Senator speaks of my colleague, Senator O'Toole.

Senator Alex White: I also thank my colleague, Senator Dan Boyle, the leader of the Green Party and all of my colleagues. I think we have worked well together and I wish everybody well in the forthcoming election and beyond.

Senator Dan Boyle: Today's session, on a Saturday, has been an historic occasion. The passing of the Finance Bill is good reason why the Seanad exists and can work well. This has been a difficult process, marked by the contents of the Bill in which none of us can take any great pleasure. If we were all to be honest, the passing of the Bill does a favour for the incoming government in allowing it avoid much of the heavy lifting and difficult decisions that have now been taken and that will be made as a result. I hope that is admitted eventually, if not before the election campaign, because history needs to record such facts.

The passing of the Bill has been difficult in the sense that tempers get frayed, voices are raised and things are said, not always in this Chamber, but sometimes nearby. It is not always understood that having left Government, some Members are part of an independent and capable party that will on occasion make independent decisions. This is something that seems beyond understanding currently, but I hope this will pass. I do not want to leave this Chamber being confronted and told directly that my party is responsible for the state of the country. Knowing that is a story and narrative that has gained currency, the challenge for us in the Green Party as we face the electorate is to say we have done what we have done in Government, believing it to be the right thing to do for the reason that it was in the best interest of the country. If the people decide otherwise, as democrats we will accept that. We have been happy and proud to contribute to the work in this House and to the workings of Government. If that is misunderstood, history will record its verdict.

I support the comments made by Senator Alex White with regard to the Cathaoirleach, the staff of the Seanad, the leaders of the political groups and the Leader of the House, with whom I enjoyed a fairly cordial working relationship, which lent itself to the proper organisation of business in the House.

I hope the incoming Administration understands that the House has 90 days of life left and they should be working days. Legislation has been published on which debates have started and the House can complete their passage for the incoming Dáil. I like to think the incoming Administration will use the House to further such legislation.

Senator John Hanafin: I thank the Minister and his officials for their work and the manner in which business was undertaken over the past two days. I acknowledge all the contributions made. I note with some satisfaction that the Bill was not taken with an eye to an election that is around the corner but with an eye to the next generation and doing what is right for the country. That is what I would expect Fianna Fáil to do consistently.

Minister for Finance (Deputy Brian Lenihan): I thank the House for its consideration of this Bill, which is important. When discussions took place last Monday in my Department about the progress of the Bill, my party and the Green Party, which I fully acknowledge was outside government, insisted upon the Seanad sitting on a Saturday. That was important because it meant the debate in the Seanad was not truncated to one day in its consideration of all Stages of the Bill. Senator Norris illustrated one way how it was of value that the House sat to consider the Bill in detail.

I have always found the Seanad's consideration of legislation in detail to be a valuable constitutional provision. In the context of the Credit Institutions (Stabilisation) Bill 2010, which we were criticised for rushing before Christmas, there was no detailed, substantive debate in the Dáil on it whereas the Committee Stage debate in the Seanad dealt with half its provisions. That, I understand, was of considerable assistance to the Council of State when it had to consider the issue of advising the President of its opinion on whether she should refer the Bill to the Supreme Court.

All this points to the fact that in the contemporary debate about the utility of a second House, there is real value in a second House. There will be a public focus on this issue in the months after the general election because the issue has been raised and it is inevitable that action will be expected by the public on this issue in the course of the next Dáil.
7 o'clock It is politically inevitable at this stage, given the issue was raised by the Fine Gael Party. It will not get away with electing a vast number of Senators and then pretending it will not change the Seanad or with coming to an arrangement with another party whereby it will not change the Seanad and using that as a get out of jail clause. Seanad reform will happen.

Senator David Norris: Hear, hear.

Deputy Brian Lenihan: There have been many reports down the years but no action. Seanad reform will now take place and the public will not tolerate a party which enters government and dishonours its word on this particular subject. That is my view and it is something that faces us all. I have commented on this in recent days when I was free to comment on a leadership issue. The House will have to be reconstituted. It may have to be made smaller but it must continue as an important dimension of our Constitution, which provides a reflective capacity for legislation.

With regard to the Bill, I thank all Senators for their co-operation. I also thank my staff in the Department. They have worked incredibly hard in recent years. There are different branches in the Department. Some officials work on tax, some on banking and some on expenditure but all of them have worked extraordinarily hard in recent years. I have noticed a note of criticism entering public debate about the Department of Finance and the officers of the Department such that somehow they are unworthy of the positions they occupy or that they do not perform their duties with the diligence one would expect of public servants. That has not been my experience. They work extraordinarily hard. They have had to work under more pressure than even those of us in public life who know the pressures that apply to Ministers and Oireachtas

Members. The pressures exerted on those men and women in recent years have been extraordinary because of the economic collapse which came upon us in summer 2008 and the necessary and essential responses that were required of the Government to deal with that. I pay tribute to them as well.

I do not want to enter into political debate because, at this stage of the proceedings, it is my understanding that it is not time for such debate. There will be plenty of scope for political debate in the weeks ahead. The Seanad will continue to operate for 90 days and I expect it will continue to have a number of important functions to perform in regard to legislation. I have raised the issue with Senator Quinn as to whether we can deal with the Construction Contracts Bill 2010 after the election because it is a matter I am anxious to see expedited. There will have to be all-party agreement on that because, following the poll, it would not be appropriate for the Government to convene the Seanad to consider a Bill. However, it is worth reflecting on and I am willing to do that in the interim period. If this commanded all-party agreement in the House, it would result in a Bill being recommended to the Dáil.

The incoming Government will have a number of urgent measures to address because we are bound by the EU-IMF programme. Legislative measures related to the banks will have to be adopted and they will be the first items of business for the next Government and the outgoing Seanad will necessarily have to deal with them within the 90-day period. This is, therefore, not the death knell of the Seanad, though it may be the death knell for Senator Alex White if he is successful in his contest for a seat in the Dáil. I was amused at his description of Dublin South. I have always called Dublin South, Dublin South-East and Dún Laoghaire the Bermuda Triangle of Irish politics because political aircraft seem to take off and disappear there at very regular intervals.

I might have an opportunity to contribute in the Seanad on one more occasion but, lest I do not, I thank Senators for their co-operation generally during my time in office in the Departments of Justice, Equality and Law Reform and Finance. I have always found their contributions lively and balanced. I saw an outbreak of political debate developing this evening. Senator Twomey is entitled to that at the end and so am I.

Senator Donie Cassidy: As Leader, I wish all Members the best of luck, particularly those standing for the Dáil. I thank everyone for their co-operation. I thank the Cathaoirleach for the way he has guided us. I also thank the Clerks to the Seanad, the group leaders and the Whips. I thank, in particular, the Government Whips, Senators Wilson and Glynn as well as the Opposition Whips, Senators Cummins and Hannigan. I also thank the Deputy Leader, Senator Boyle.

We had a productive Seanad for almost four years. We have more than 90 days to go and the Seanad will sit again on at least one or two occasions to take business that has to be debated.

With regard to Seanad reform, I would like to see reform of the Dáil and the Seanad take place hand in hand. One cannot have one without the other. Today and yesterday the Seanad proved its worth again to the people through the thorough scrutiny of legislation and the brilliant contribution made by our Minister of Finance. It is a pleasure and an honour to have worked with him down through the years. I wish him well in his own campaign and I look forward to working with him for many years to come.

An Cathaoirleach: In case the House does not sit again before the general election, I express my thanks to the staff of the House, particularly, Ms Deirdre Lane and Ms Jody Blake and the Leas-Chathaoirleach, Senator Burke, for his help and co-operation at all times. I thank the

[An Cathaoirleach.]

recording staff and the press for their work. I also thank the Minister and his staff who have spent the past two days with us to process the Finance Bill. I wish all Members well for the future, particularly those going forward in the forthcoming general election and Seanad election.

On an evening such as this, I would particularly like to remember those Members who passed away during this Seanad, the late Senators Peter Callanan, Tony Kett and Kieran Phelan. May they rest in peace.

Go n-éirí an bóthar libh.

The Seanad adjourned at 7.10 p.m. *sine die*.