

SEANAD ÉIREANN

Dé Céadaoin, 23 Márta 2011.
Wednesday, 23 March 2011.

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Paidir.

Prayer.

Business of Seanad

An Cathaoirleach: I have received a request signed by 30 Senators to summon a meeting of the Seanad for the specific purpose of discussing a motion on the programme for Government and the Mental Health (Involuntary Procedures) (Amendment) Bill 2008. The request complied with Standing Orders and I accordingly summoned this meeting.

In accordance with the procedures which have brought the House here today there are only two items of business before the House — the motion and the Bill on the Order Paper. There is, therefore, no Order of Business.

To assist in the orderly conduct of business, I ask the Leader to propose the speaking times on the motion and the time it is intended to take the Bill.

Senator David Norris: I understand completely the technical reasons there is no Order of Business today because the business has already been ordered and, naturally, I must accept this. However, I regret the fact that we do not have an Order of Business and I think most of my colleagues will also regret this fact.

I attempted to submit an important matter for the Adjournment of the House and there does not seem to me to be any necessity to curtail the wish of Members to have matters discussed on the Adjournment because we will certainly have to adjourn Seanad Éireann and I wonder why this view has been taken officially.

An Cathaoirleach: I am acting in accordance with precedents set.

Senator David Norris: Will the Cathaoirleach quote the precedents for me, either perhaps now or in writing?

An Cathaoirleach: I have ruled——

Senator David Norris: I am not aware of any precedent.

An Cathaoirleach: Senator Norris, I have ruled on that and I speak with that ruling.

Senator David Norris: I do not believe there is a precedent.

An Cathaoirleach: There is no Order of Business.

Senator Ivor Callely: On a point of order.

An Cathaoirleach: What is the point of order?

Senator Ivor Callely: I have been communicating with the Cathaoirleach since 9 March. I would like to make a personal explanation to the House. I believe it is within the Cathaoirleach's remit——

An Cathaoirleach: I have replied to the Senator's letter and he should have received it by post today.

Senator Ivor Callely: I believe it is within the Cathaoirleach's remit. If he cannot accommodate me today, perhaps he can do so another day when the House is sitting.

An Cathaoirleach: I cannot accommodate the Senator. I do not order the business for this House as to when it will sit again.

Senator Ivor Callely: Can I presume——

An Cathaoirleach: No, Senator, please.

Senator Ivor Callely: ——that if my colleagues give permission for me to make a personal explanation the Cathaoirleach will accommodate that request?

An Cathaoirleach: I am not in a position to say. I cannot order the business of the House and nor do I order it.

Senator Ivor Callely: But if my colleagues agree to it, will you accommodate it?

An Cathaoirleach: I call the Leader.

Senator Ivor Callely: When I ask the Cathaoirleach a question I do not ask the Clerk a question.

An Cathaoirleach: I have replied to the Senator and I have replied in writing on a number of occasions over the past few days.

Senator Ivor Callely: I have been writing to the Cathaoirleach since 9 March and he has not been communicating with me.

An Cathaoirleach: I have replied promptly on all occasions. I call the Leader.

Senator Ivor Callely: That is not so. I asked the Cathaoirleach a question.

Senator David Norris: I ask the Cathaoirleach to remind the House of the long-standing tradition that the staff of this House who are held in great respect are not abused by Members. It is beyond the capacity of this House and it is completely wrong to do so.

An Cathaoirleach: Yes.

Senator Donie Cassidy: It is proposed that the motion shall be taken immediately and conclude not later than 5 p.m., if not previously concluded. Spokespersons shall speak for ten minutes with all other Senators to speak for seven minutes and Senators may share time, by agreement of the House and the Minister to be called upon to reply and take questions from spokespersons and leaders ten minutes before the conclusion. It is also proposed that No. 2,

the Mental Health (Involuntary Procedures) (Amendment) Bill 2008, Committee Stage, shall conclude at 6.30 p.m. It shall be adjourned or conclude, whichever the House wishes at that stage.

An Cathaoirleach: What are the arrangements for speaking times on the Bill?

Senator Donie Cassidy: It is Committee Stage.

Senator Maurice Cummins: Was there some question of a motion coming before the House regarding a justice matter that had to be proposed or will this be dealt with at a later stage?

An Cathaoirleach: I have not received any notice as yet.

Senator Maurice Cummins: I thank the Cathaoirleach.

Senator Donie Cassidy: On a point of information, in order to support Senator Cummins, can a supplementary Order Paper be issued later today?

An Cathaoirleach: No. I am not taking anything else. I have outlined what the Order of Business is for today.

Programme for Government: Motion

Senator Joe O'Toole: I move:

That Seanad Éireann notes the programme for Government recently agreed by the Government parties.

I welcome the Minister and appreciate that he has made himself available to participate in this important debate. I would like to share my time with Senator Harris.

An Cathaoirleach: Is that agreed? Agreed.

Senator Joe O'Toole: It is easy to take a cynical view of programmes for Government. This is a very positive programme for Government and the real issue is whether it will be delivered upon. As it contains too much to address in a five-minute slot, I wish to deal with a number of issues which I ask the Minister to take back and consider closely.

Shared decision making, dealing with quangos and cloud computing are high profile issues in the programme for Government. Cloud computing is an issue we have discussed here and we are completely supportive. Rather than getting to the next stage of broadband, the reality is that many households still do not have access to broadband which we regard as the first step before taking the next one.

There is a proposal that the managers or chief executives of various bodies — they are not called quangos — report directly to the Minister of the day. The point about quangos is to bring on board people with experience, knowledge and expertise in order that they could advise the body concerned to meet its requirements, sort out policy and move forward. The problem is that if we were to get rid of the people concerned, we would then have a chief executive who would effectively be a manager and not necessarily from the background needed, reporting to a Department which would not have the required expertise either. There is another proposal to introduce further expertise, for instance, in the Department of Finance, to which no one will object. However, it creates difficulties as to how it would work. How can we have a team running through it? How can we ensure we avail of all the expertise available in the country

[Senator Joe O'Toole.]

— in whatever way we can do it — in order that people with expertise can have an input and at the same time ensure quangos are reduced to a minimum?

One aspect which would be very helpful should be highlighted. There should be clear stretch objectives for every public body. The programme for Government should propose an assessment on a number of occasions a year of each one of them. These objectives and assessments should be listed on the public websites in order that we could see whether progress was being made. These simple things could be done and would make sense.

The programme for Government places significant emphasis on renewable energy. There is a commitment to address some very important and attractive issues in the first 100 days which no doubt others will discuss. I wish to propose a few important things that could be done which are simple enough. We need geothermal legislation which this House has been promised four times in the past two years. It is required to enable us to use the energy to be found underground — hot water, in particular. We need legislation similar to mining legislation to allow developers to extract this energy and use it without fear of action being taken against them.

We need foreshore legislation to provide for offshore energy units. While various aspects of foreshore legislation have been proposed, until such legislation is put in place, we cannot make progress. There is more energy to be harnessed from the waves off the northern coast of County Mayo than there is in what is being mined under the sea. We have spent five years tearing ourselves apart to bring gas onshore, something which we had to do, but we have fallen well behind the rest of Europe in harnessing the most extraordinary, attractive and enriched wave energy in Europe. It can be brought ashore by introducing legislation. Geothermal legislation and the foreshore Bill need to be dealt with.

On people who produce energy through renewable energy and feed in to other schemes, the tariff or quantum for that needs to be increased. It is the only way in which we can draw people into the system and make it commercially attractive.

I want to ensure there is five minutes left for my colleague.

An Cathaoirleach: The proposer of a motion would normally not share time with the seconder of motion. The seconder will speak after the proposer.

Senator Eoghan Harris: Carry on, Joe.

Senator Joe O'Toole: I am also attracted to the NewERA document. The Minister will be met with cynicism on this issue, which he will have to ride out. The document refers to important issues, some of which the previous Government was also considering, including a smart grid combining EirGrid and the gas network, which could be extraordinarily powerful.

EirGrid is the single most important and crucial link in our energy grid. Bord Gáis is now selling electricity but the ESB is not allowed to sell gas. Both issues tie into and are complementary to each other. It is crucial the proposal from Government to create a new smart grid is fleshed out and discussed. Such a discussion could take place in this House. It will never be done in the other House because people will be sniping at each other. It is a crucial and difficult issue which needs to be worked through.

The proposal to create a new bioenergy resource by bringing Coillte and Bord na Móna together could create a new impetus and release a new dynamic in energy production in this country. It should also be tied into agriculture. There is no doubt we have a suitable climate whereby farms could be converted into biogas production units. I recently saw a project in Germany involving a 300 acre farm, two acres of which are set aside for the production of

biogas and the rest of which is used to grow maize and, in particular, wheat, which is used to create biogas for electricity and other uses.

These are things which are not happening in Ireland. We need one thing which is missing from the programme for Government, namely, an energy initiative. We need to challenge various groups. We should involve the IFA in the initiative by telling it we think we can make progress and that we would like to hear what it would do. The same could happen with the unions, something which I have said to my union colleagues.

There is no point in only discussing jobs; we can only create jobs if we can create sustainable energy. For example, we need to sit down with the hotel industry and use the brains of everybody involved in it, including workers, management and Government, to determine how we can sell the product. Tourism is a major component of the programme, which is welcome, but we should not fall into the trap of thinking that all wisdom is in the Department of Tourism, Culture and Sport. Rather, it should be the crossroads to make things work in a particular way and use every available resource, including energy, experience and expertise, to make it happen. It is something we need to be working towards.

On political reform, I wish to refer to local government. I want to give an example from the Taoiseach's constituency. I met the former county manager of Mayo who put in place a programme that examined wind energy of 500 MW, which is one tenth of our peak needs, a wave energy programme involving those waves I mentioned earlier, and a tidal energy programme based at Bull's Mouth in Achill, where the tide runs in and out at an extraordinary speed twice, three or four times a day. That could not find a way forward because a connection to the grid could not be secured. There was also a foreshore legislation difficulty, as well as a few others. If local authorities were given the power to do some of these things and allowed to change the rules in order to make them happen, there is a huge energy supply to be released.

In thanking the Minister for engaging in this discussion, I have only touched on a document which could easily be rubbished by people as being purely aspirational. It is important that it is aspirational, but it must also be deliverable. It is and we need to see it being delivered upon. The Government parties have provided in the document for the need to look at various public bodies and what progress has been made. I would like to think that every three months we will be able to come back to this debate and ask what progress has been made on the commitments given and apply the assessment about which we have talked for others to ourselves.

Senator Eoghan Harris: I second the motion. I reserve my right to speak after the other Independent Senators have spoken in order that we might benefit from their accumulated wisdom.

An Cathaoirleach: I congratulate the Minister on his appointment and wish him well in the future.

Minister for Justice, Equality and Defence (Deputy Alan Shatter): Thank you very much, a Chathaoirligh. I also thank Senators for giving me my first opportunity to address the House and speak about the programme for Government. I was told I would have 20 minutes to speak, but I gather I have only ten. A copy of my script is available to be circulated, but I intend—

An Cathaoirleach: There is no time restriction.

Deputy Alan Shatter: That is good news. I understood I would have ten minutes.

Senator Joe O'Toole: We do not apply the restrictions applied in the Dáil.

Deputy Alan Shatter: On 25 February the people had their opportunity to speak and their verdict was clear. They voted overwhelming for change and reform. The new Government has been formed to deliver on that change and reform. To respond directly to Senator O'Toole, we are in a hurry to implement change.

The Government comprises parties which between them obtained in excess of 55% of the popular vote. This provides a clear, strong mandate with which to provide stable government for the next five years. That strong mandate is important because we are living through an economic and social crisis with few parallels in our history. Unemployment and emigration have re-emerged as a scourge on families and communities across the country. The latest statistics show that the rate of unemployment has increased to 14.7% and more than half of those unemployed have been out of work for more than one year. Thousands of young people are leaving Ireland in search of work abroad, reminding us all of the dark days of the past and my youth.

The public finances have been completely undermined, leaving a huge and unsustainable gap between levels of expenditure and taxation. Regulatory failures and irresponsible behaviour in financial institutions have led to the collapse of the banking system.

The State's own credit worthiness has been seriously damaged by the financial difficulties affecting the banks and financial institutions and the approach to these difficulties of the previous Government. We have been forced to accept financial assistance from the IMF and the European Union and our capacity to manage our own financial affairs has been substantially diminished. These events have badly damaged our reputation as a country in the European Union and across the world.

Reflecting the scale of the crisis confronting the country, the people voted for change: not just new faces in government but a new approach to politics. They have given Fine Gael and the Labour Party an overwhelming mandate to implement that change.

Based on this strong mandate, Fine Gael and the Labour Party have agreed on a programme for national recovery, the subject matter of this discussion. The programme is a realistic yet ambitious response to the crisis facing the country. It recognises that a difficult road lies ahead of us but shows a willingness to confront the challenge head on.

At its core, the programme for Government is about restoring confidence in the country at home and abroad. We need to rebuild Ireland's international reputation. We took the first steps during the successful St. Patrick's Day visits last week. The decision of President Obama to visit Ireland in May is a further welcome vote of confidence in the country. We will use the occasion of his visit and that of Queen Elizabeth to send a new positive message about Ireland around the world. We will continue this process through a sustained campaign to restore confidence in the country as a place in which to invest or to visit as a tourist.

A key and central goal of the programme is to offer hope, in particular to young people. Our goal is to persuade our best and brightest young people to stay in Ireland and participate in the process of renewal we badly require. Above all, the programme places an immediate focus on jobs. Within 100 days, we will introduce a jobs budget to help keep our young people at home, building the future of their own country. We will cut the lower rate of VAT and will halve the lower rate of employers' PRSI. We will create 15,000 new places in training, work experience and education for people who have lost their jobs. Through NewERA, we will revitalise our national infrastructure networks and support new jobs.

We will introduce measures to increase our competitiveness on international markets. We will set up a strategic investment bank and new mechanisms to deliver credit to small businesses which are currently experiencing so much difficulty. We will prioritise our relationships with new and emerging countries, including China, India, Brazil and Russia, which are increasingly

important for investment and trade. We will reduce costs for business and help SMEs to grow and create jobs. We will put a new focus on innovation and commercialising research. We will attract leading venture capital companies to locate in Ireland, supporting new start-up companies and jobs. We will implement ambitious job creation strategies in each sector — agrifood, tourism, international financial services, digital industries, green enterprise, international education and many others.

In the programme for Government, we commit to solving the fiscal crisis and honouring our sovereign debts. We will take the necessary but painful decisions in the years ahead to close the gap between tax revenue and expenditure. This deficit exists independent of the banking sector and must be closed if we are to return to the markets at the end of the EU-IMF programme and regain our economic independence. However, we will reduce the gap in a way which seeks to minimise the impact on the most vulnerable. We will also retain a taxation system which incentivises enterprise and work. The programme also commits to establishing an independent fiscal advisory council, a new institution which will ensure the budgetary mistakes of the past decade are never repeated.

We also need to limit additional taxpayer commitments to the banking sector to levels consistent with Ireland returning to the bond markets at the end of the current EU-IMF programme of support and ensure the difficulties with which we are confronted do not render economic recovery impossible. We must not lose sight of the fact that the EU-IMF programme incorporates within it growth projections for our economy on which achievement of the programme's objectives are dependent. We must ensure the programme to which the previous Government committed and the approach taken to our banking crisis is not allowed to become this State's 21st century version of the Treaty of Versailles. While acknowledging and thanking our European partners for the crucial and necessary assistance provided to us, it is right that it be acknowledged that it is not only in our interests but those of Europe generally that the arrangements made facilitate a return in this State to real domestic economic growth. They must not act as an insurmountable barrier for years to come to substantial jobs creation and force tens of thousands more of our people to emigrate in search of work.

In the programme for Government, we set out strategies which we are pursuing to secure a solution that is perceived as affordable by both the international markets and the Irish public. We need to restructure and restore confidence in our banking system without further damaging the credibility of the Exchequer. We also need to restore Ireland's standing as a respected and influential member of the European Union. This work has already begun.

The Taoiseach and the Minister for Finance have already been heavily engaged with our European partners making Ireland's case in a rational way while standing up for our vital and legitimate interests.

We will continue to work with our partners to improve Ireland's situation, including in seeking to improve the terms on which it receives loans from the European Financial Stability Facility, and to secure support to bring the crisis in the banking sector to a close. As negotiations are continuing, including at the European Council later this week, it would not be appropriate for me to enter into detail here. However, I reassure the House that the Government will not compromise on our 12.5% corporation tax rate. As the programme for Government makes clear, this is a core element of our economic strategy. The Government has a strong and fresh mandate from the people for the negotiating strategy we are pursuing and I am confident it will be possible to deliver an outcome which will work for Ireland and our EU partners.

We also need to improve the depth and quality of our engagement with the European Union. It is important, therefore, that the Oireachtas plays its full part in overseeing the enactment of

[Deputy Alan Shatter.]

EU law. That is why the programme for Government contains a set of measures to overhaul how European business is dealt with. All committees will be expected to play a role in scrutinising EU law as an integral part of their business. In addition, all Ministers will be obliged to appear before their respective committees, or the committee on European affairs, prior to travelling to Council meetings where decisions are made. These and other measures in the programme will improve the transparency of Ireland's interaction with decision-making at EU level.

The public service must also modernise, adapt to new financial circumstances and deliver better services with fewer resources. The programme for Government commits to the most ambitious programme of reform since the foundation of the State. We will make the public service smaller and more efficient by significantly reducing employee numbers and reforming the way it works. We will give front-line staff the power to make more decisions. We will bring new skills and rigour to policy-making across all Departments, with greater scrutiny and analysis of decisions. The culture of secrecy will be replaced by more openness and transparency. The Freedom of Information Act will be restored to what it was before and a whistleblowers Bill will be introduced.

We will increase delegation of responsibility for budgets and improve accountability for results across the public service, with clear consequences for success and failure. We will put resources into the hands of citizens to acquire services tailored to better suit their needs. We are undertaking a comprehensive spending review to examine all areas of public spending and develop multi-annual budget plans.

A more effective, leaner and high performing public service is in the interests of citizens and public servants alike. This will mean empowering the Civil Service and spelling out with clarity the legal responsibility between Ministers and their civil servants. We will bring new energy to achieve the full potential of the Croke Park agreement to deliver on these ambitious reforms. There is an appetite for change within the public service which will help to ensure improved service delivery and organisational efficiency are achieved. The difficult economic circumstances we face are, in fact, an opportunity to streamline the public service and strengthen its performance.

Let me make it clear that real and radical public service reform is one of the main priorities of the Government. We will deliver this reform for the citizen by reducing waste, more effective financial scrutiny, more open government and more empowered public servants with a focus on end results. The credibility of this reform agenda also requires politicians to take the lead. Reform must start with politics. Such reform is essential to restore trust in politics and government. It is essential for other reasons too — in order that the resolution of the fiscal crisis is seen to be carried out as far as possible in a way that will protect the most vulnerable in our society, while enhancing our competitiveness and delivering value for money. Our commitment starts with ourselves. Members of the Government have already reduced their own pay and reformed the system of transport for Ministers. We will make sure that political expenses are vouched for and remove severance payments for Ministers. No political pensions will be paid to sitting Deputies. In the future no retired politician will receive a political pension until the national retirement age.

We have committed to putting the issue of the abolition of the Seanad before the people for their decision in a referendum. Ultimately, this will be an issue for them to decide on, but its inclusion in the programme reflects a number of factors. It is an important demonstration that the political system is delivering efficiencies and savings at a time when every other part of Irish society is being asked to make sacrifices. It also reflects a global move towards having

single chamber parliaments and follows the action taken by a number of other countries which have abolished their second Houses.

I emphasise that it does not reflect on the individual contributions of current or past Members of the Seanad. It is an important, symbolic and practical reform.

We will reduce the number of Deputies after the publication of the results of this year's census. We will establish an electoral commission. We are committed to making the Dáil work more effectively. In light of the judgment of the Supreme Court in the *Abbeylara* case, we intend to bring a referendum before the people to amend the Constitution to give Dáil committees full powers of investigation. We will provide for fewer but stronger Dáil committees which will be resourced properly. We will extend the parliamentary questions regime to State bodies, requiring them to provide answers to written questions within a specified number of Dáil sitting days. We recognise the special position of bodies with a commercial mandate which operate at arm's length from the Government. We will introduce spending limits for all elections, including presidential elections and constitutional referendums. We will reduce the limits on political donations to political parties and candidates. We will require disclosure of all aggregate sums above €1,500 and €600 in either case. We will introduce the necessary legislative provisions to ban corporate donations to political parties. We will establish a constitutional convention to consider comprehensive constitutional changes, such as reviewing the Dáil electoral system, reducing the presidential term, providing for same-sex marriage, encouraging greater participation of women in public life and, possibly, reducing the voting age.

In respect of my own departmental responsibilities, the programme for Government sets out an ambitious agenda for reforming and modernising our legal, judicial and policing structures. We will free gardaí for front line policing duties by ensuring administrative functions are carried out by civilian staff. We are committed to a sentencing system which provides a safer society at a lower cost to the taxpayer, particularly by switching towards less costly non-custodial options for non-violent and less serious offenders. We made a start in this regard earlier this week when we published the Criminal Justice (Community Service) (Amendment) (No. 2) Bill 2011. We will establish a judicial council with lay representation. We will propose a constitutional amendment that would allow the Government to reduce the pay of the Judiciary in line with other public sector reductions. The legal system is an important part of overall economic competitiveness and efficiency. We will establish independent regulation of the legal profession, make legal costs more transparent and review how the State tenders for legal services. I have mentioned a few examples of the reform agenda I will be leading in my Department.

The programme for Government puts equality and fairness at the heart of government. We want a fair society in which people trust the institutions and services of the State, where those services demonstrably work for them. We need to minimise the burden of the fiscal adjustment on the most vulnerable people in society. We are keenly aware of the pressures on our health and social services. We will introduce universal health insurance with equal access to care for everyone, thereby ending the two-tier health system in which people fear not being able to receive the treatment they or their families might need. We will ensure there is universal coverage by paying for those on lower incomes and providing subsidies for those on middle incomes. We will deliver universal primary care which will remove fees for general practitioner care and ensure patients have access to a wider range of health services and professionals in their local communities.

As the fiscal situation is so difficult, we need new approaches to tackling poverty, educational disadvantage and social protection. We know that children remain the group most at risk of poverty in Ireland. More than 90,000 children live in families that cannot afford basic necessities like food or warm clothing. To break this cycle of poverty, the Government will adopt a new

[Deputy Alan Shatter.]

area-based approach to child poverty, drawing on best international practice and existing services. The Government is committed to holding the long promised referendum on children's rights and to restructuring our child care services. A new child welfare and protection service is to be established as an executive agency operating under the aegis of the new Department for children. Education is the key to increasing opportunities for future generations of young people. The review of the Delivering Equality of Opportunity in Schools programme will provide a basis for new initiatives to deliver better outcomes for students in disadvantaged areas. We will protect families whose homes are at risk through a combination of new reliefs, existing supports and forbearance measures.

These tremendous challenges will require great determination at a time of scarce resources. We are moving on them straight away. We already have the foundations in place. The new Minister for public expenditure and reform is tasked with ensuring public services are fair, efficient and accessible. For the first time ever, children become the responsibility of a senior Minister. Primary care, the most crucial of the front line health services, is the specific responsibility of a new Minister of State.

The Government will also ensure that the crisis is used as an opportunity for reform in order to forge a country built on fairness and equal citizenship. Our commitment to equality is reflected in specific measures relating to people with disabilities, Travellers and minority ethnic groups. We will bring forward a realistic implementation plan for the national disability strategy, including sectoral plans with achievable timescales and targets. We will ensure that money spent on disability services is clearly set out and audited. Every country should value, respect and protect older people. We will complete and implement the national positive ageing strategy to this end. The programme commits to ensuring that State boards have at least 40% of membership from each gender. Importantly, public funding for political parties will be tied to the level of participation by women as candidates in each party.

The verdict of the Irish people is reflected in the programme for national recovery before the House today. The programme has been agreed by the two largest parties in the Oireachtas, ensuring that we will have strong, stable leadership. We now have a Government with a mandate and willingness to face the hard decisions and offer real leadership at home and abroad. The Government is under no illusions about the scale of the challenge ahead. We have set out a programme that addresses these serious challenges in an honest and fair way. It is a programme to which we are committed and I commend it to the House

Senator Maurice Cummins: I welcome the Minister for Justice and Law Reform. He is the first Minister to address the Seanad since the formation of the new Government.

On 25 February, the Irish electorate voted overwhelmingly for a Government of national recovery and demanded a new approach to politics in this country. The programme for Government is based on a realistic, fair and honest assessment of the crisis facing the country and the Government's vision for Ireland's development over the coming five years. The document is divided into the following five sections: the economy, which addresses our banking and fiscal crises; reform, which deals with the radical constitutional and political changes necessary; fairness, which aims at ensuring that citizens have equal access to and confidence in top quality services; and progress, which will rebuild confidence in every sector of our economy.

The programme for Government aims to restore confidence in Ireland both at home and abroad. The new Government will rebuild the country's international reputation and ensure every country, company and entrepreneur knows we are open for business. The Taoiseach led the first Government delegation to Washington, DC, to spread this message at several meetings

with business leaders, culminating with a visit to the US President, Barack Obama, on St. Patrick's Day.

Given the limited time available to me, I will confine my remarks to a reflection on aspects of the programme for Government. Job creation and protection are central to any recovery strategy and the big challenge for Ireland is to develop a strategy that allows job growth and sustainable enterprise. Within 100 days, the Government for national recovery will introduce a jobs budget to keep our young people at home and support and protect employment. It will resource a jobs fund that can provide resources for an additional 15,000 places in training, work experience and education for those who are out of work. It will cut the 13.5% VAT rate to 12% up to the end of 2013. It will reduce by half the lower 8.5% rate of PRSI on jobs paying up to €356 per week until the end of 2013. It will also do the following: reverse the cut in the minimum wage; abolish the travel tax as part of a deal with airlines to restore lost routes; implement a number of sectoral initiatives in areas that will create employment in the domestic economy; initiate a long-term strategy to develop new markets in emerging economies; secure additional resources for the national housing energy retrofitting plan in order to phase out subsidies in this area by 2014; expand eligibility for the back-to-education allowance; and accelerate capital works that are shovel-ready and labour-intensive, including schools and secondary roads.

The programme for Government re-commits Ireland to solving the fiscal crisis and honouring our sovereign debts. The gap will be reduced in a planned way, minimising the impact on the most vulnerable in our community while retaining incentives for enterprise and work. The fiscal strategy of the new Government commits, among other things, to retaining the corporate tax rate of 12.5%, maintaining the current rate of income tax together with tax bands and credits, maintaining the standard 10.75% rate of employers' PRSI and reviewing the universal social charge. With regard to the EU-IMF deal, the programme sets out the strategies that will be pursued to secure a solution that is perceived as affordable by both the international markets and the Irish public.

Reform is required to restore trust in politics and politicians, and the programme commits to a radical overhaul of the way politics and government work. The Government has already started this process by reducing pay for office holders, reducing staffing and reforming ministerial transport. These may be small changes in financial terms, given the state of our economy, but it is important that reform starts at the top, right from the start of this new Government.

Five constitutional referendums will be held during the term of the Government, on children's rights, the granting of full investigative powers to Oireachtas committees, protecting the confidentiality of citizens' communications with their public representatives, reductions in the salaries of judges in restricted circumstances, and the abolition of Seanad Éireann. Timetables for the drafting and debating of these Bills must receive priority. It would of course be practical and cost-effective if some of these five referendums could be held together, but detailed analysis must be carried out first.

Given the serious matters raised in the Moriarty tribunal, the report of which was published yesterday, it is worth highlighting the commitment in the new programme for Government to ensure that Governments and political parties are held to account. The Government will introduce the necessary legal and constitutional provisions to ban corporate donations to political parties, which are long overdue. I have already mentioned the proposed referendum to amend the Constitution to reverse the effects of the *Abbeylara* judgment, which would enable Oireachtas committees to carry out full investigations of all matters.

The views and input of the public are also critical to any reform process. The new Government will establish a constitutional convention to consider comprehensive constitutional

[Senator Maurice Cummins.]

reform, introducing a review of our Dáil electoral system and reducing the presidential term, among other matters.

An Cathaoirleach: Did the Senator say he was sharing time?

Senator Maurice Cummins: No.

An Cathaoirleach: That is fine. I am sorry about that.

Senator Maurice Cummins: I understand the intention is for the convention to operate on an independent, inclusive and non-partisan basis, and to involve citizen participation.

There are tremendous challenges ahead, but the Government is absolutely committed to delivering on the programme for Government. The new programme for national recovery received 55.5% of the popular vote through votes for Fine Gael and the Labour Party, which is a huge mandate for delivering institutional reforms, rebuilding confidence in our economy and bringing fairness and equality back to the heart of the Government. We now have a Government with a mandate and a willingness to face the hard decisions required and offer real leadership to the Irish people.

Senator Marc MacSharry: I join with others in welcoming the Minister, Deputy Shatter, to the House, congratulating him on his appointment as Minister and wishing him and his Government genuine success in the years ahead. I am glad to have the opportunity, however unusual this is in the midst of a Seanad Éireann election campaign, to make a few comments on the programme for Government. There is much in it that all parties and none will find it easy to agree with, considering the economic difficulties in which the country finds itself, and in that regard many parts are uncontroversial. Some issues, of course, arise as a result of the pre-election determined positions of people and parties in respect of what is now within the programme for Government. Notwithstanding this, I genuinely wish the Government well and hope it can make progress on our behalf in continuing to stabilise the country's budgetary position and in trying to achieve economic recovery, not least in the jobs market.

I want to address a number of issues, initially the area of health, where we had the stated pre-election position as regards the abolition of the Health Service Executive. For many years, since the introduction of the Health Act 2004 in this House, I have been critical of the Health Service Executive and the fact that it had control of some 50% of the country's tax take while operating at arms length. However, the programme for Government is somewhat vague as regards what is to happen in this respect. Is the HSE to be abolished? The pre-election position of the Labour Party, for example, to quote Deputy Jan O'Sullivan as reported in *The Irish Times* on 8 February, was:

We won't abolish the HSE on coming into government. What we are going to do is devolve various functions of the HSE, for example we will give hospitals control over their own budgets.

We also had the proposal to introduce universal health insurance with access according to need and payment based on a patient's ability to pay, and that insurance for public or private coverage be compulsory while at the same time the VHI should be kept in public ownership to retain a public option within the health insurance system. Fine Gael proposed an entirely private system based on the Dutch health insurance model, although what seems to be emerging is a hybrid model. Again, I am not sure how exactly this will work, and clearly in whatever capacity I might serve after the Seanad elections, I look forward to hearing more of the detail on this issue. Certainly more is needed. There was a proposal to the effect that the staff of the

HSE should revert to the direct control of the Department of Health of Children, as well as the new health insurance organisation, whatever that might be. I should be interested to know whether the Minister can give the Seanad some further detail on that.

All politics being local, I recall a promise in my area to the effect that within 100 days we would see the return of cancer care services at Sligo General Hospital. No doubt the Minister of State, Deputy John Perry, is making haste with the preparations for that, and I should be most supportive if it is achieved.

The programme for Government proposes setting up a jobs fund. When the Labour Party proposed setting up a jobs fund, Fine Gael was quick to criticise, saying in effect that the Labour Party was placing all its faith in raising €500 million for a vague jobs fund that would see politicians and State agencies seeking to influence matters for their own agendas. Deputy Richard Bruton said on 31 January that it was not clear whether this jobs fund would even yield a return for taxpayers. Another problem with the proposed fund is that it does not seem to be costed. What happened to the Labour Party's promise to allocate half a billion euro to a jobs fund? Is this still a figure we are working towards, or what is the current situation? Again, some further detail on that would be appreciated.

The programme for Government proposes implementing the recommendations in the report *Trading and Investing in a Smart Economy*. The report was published in September by Fianna Fáil when in government and was heavily criticised by both parties in the present Government. The Labour Party described the plan as being high on targets and short on specifics. It also said that these initiatives were more about an attempt to “rehabilitate the reputation of a discredited Government” than getting people back to work, according to Deputy Willie Penrose, and yet it seems to be an appropriate policy, as outlined in the new programme for Government.

Fine Gael also criticised the report saying it was a “PR joke that no unemployed person would be laughing at, as it contains no funding, no new policies, no new programmes”. The jobs target was described as a farce by Deputy Leo Varadkar on 28 September 2010.

The programme for Government proposes the establishment of an export trade council. Fine Gael was highly critical when the Labour Party proposed this in January. Deputy Richard Bruton said the 25 new structures, positions, centres, councils, task forces and expert groups proposed by the Labour Party would not have any impact on job creation unless the underlying weaknesses in the economy were addressed.

We are looking for more detail on some measures. The programme for Government targets a sum of €2 billion from the sale of non-strategic assets. The programme does not identify specific assets, but we know from Fine Gael's position before the general election that Bord Gáis Energy, ESB power generation facilities, excluding hydro plants, customer supply companies and RTE masts and towers, excluding the television stations, were all up for grabs. The Labour Party has been very critical of the proposed sale of assets. Recently Deputy Joan Burton said she found it astonishing that Fine Gael would suggest the sale of assets such as energy and power companies at a time when Ireland's credit rating was rock bottom. We would be selling at rock bottom prices. The programme for Government incorporates Fine Gael's NewERA plan in name, of which the Labour Party has been highly critical in the past. Deputy Joan Burton, the new Minister for Social Protection, said Fine Gael's NewERA document contained extraordinary figures and that it would be accompanied by the creation of about ten quangos. She also said Deputy Michael Noonan had made a remark in passing that it had been dreamed up by someone in the Fine Gael PR office. I share her recollections on that point. The NewERA programme does not specify how much upfront investment is required. Does

[Senator Marc MacSharry.]

the €7 billion figure apply or is there a new one? Is the investment of €7 billion included in the capital programme already under way?

The establishment of a strategic investment bank is referred to in the programme for Government. The real concern is whether it will attract much-needed funding from the main recapitalised banks, AIB and Bank of Ireland. The position of the Tánaiste is that €2 billion from the National Pensions Reserve Fund will be used as initial capital for such a strategic investment bank and that it will be used to leverage a further €20 billion. I am interested to know how this could happen. The funding of this bank will be difficult, considering the difficulties we are having in keeping the banks going. While the aspiration of what the money will be used for is honourable, it is difficult to see how we could come up with the finance for another bank. At a committee meeting in 2009 the Governor of the Central Bank, Professor Patrick Honohan, referred to the dangers of State-owned banks. There was no mention of such a bank in the Fine Gael banking document, "Credit Where Credit is Due". I appreciate the need for compromise in negotiations on a programme for Government. At the same time, the need for compromise cannot be used as the reasoning behind the basic denial of some policies in favour of the adoption of others when both partners in government were diametrically opposed to them at other times.

On political reform, we are in the middle of the Seanad election and it is in order for me to say it is populist to propose the abolition of Seanad Éireann. If we were to propose the abolition of Dáil Éireann, we would also find supporters. The same applies to the Presidency and other institutions of the State. We should focus in a serious way on trying to use these institutions correctly. They need reform before we opt to abolish them. Political hierarchies of all parties and none have chosen to use this institution, Seanad Éireann, as a breaking ground for new talent and a safety net for also-rans. It could be much more valuable. In his address the Minister in the context of European legislation spoke about the Government's focus on the scrutiny of EU legislation. There is no better forum than this to do that. I hope the Government can examine the possibility.

If the Cathaoirleach will indulge me for one minute, I wish to raise two other issues. The programme for Government does not seem to mention, other than in passing, the Croke Park agreement. I come from a business background and the nature of my responsibilities in this House is to reflect business. It is disgraceful in the extreme that we continue to preside over a Croke Park agreement which proposes so many worthwhile savings yet nothing has been implemented. If it was a business and a business plan, it would have been agreed yesterday and implemented today. The delay is inexcusable. I am interested in hearing about the Government's immediate plans to rectify that.

My last point relates to mortgage arrears and families having serious difficulty meeting their repayments. I advocate the protection of the primary family residence. Given his legal background, I ask the Minister to consider the amendment of the Enforcement of Court Orders Act to prohibit the granting of a court order for the repossession of a primary family residence unless three things happen, namely—

An Cathaoirleach: Time, please.

Senator Marc MacSharry: —an assessment of existing repayment capacity; critically, the examination of original underwriting and application quality; and the consideration of a range of alternative repayment options.

An Cathaoirleach: I call Senator Bacik.

Senator Marc MacSharry: I wish the Government well. I am pleased to have had an opportunity to make a few points on the programme for Government.

Senator Ivana Bacik: I welcome the opportunity to speak on the programme for Government. I compliment Senator O'Toole on initiating the motion by which we are convened today to debate it. We are debating it in the context of a new political atmosphere and in the presence of a new Minister, Deputy Shatter, whom I welcome to the House.

While the election of 25 February was a matter of personal disappointment for me, it was a resounding defeat for the outgoing Fianna Fáil-Green Party coalition Government. It has marked a noteworthy change in personnel and policies in the new Government, the government for national recovery. It is good to hear speakers on both sides of the House wishing the Government well in implementing the programme for national recovery and in bringing this country out of the current economic crisis.

It is odd to be debating the issue in the Seanad because we are in an interim state, given that the former Government parties still command a majority, and a significantly increased one at that since so many Fine Gael and Labour colleagues were elected to the Dáil. This is the first opportunity we have had to congratulate those who were elected. It is an odd time in the Seanad Chamber.

I wish to move to the content of the programme for Government and to examine the most important principles contained within it. Time does not permit any of us to go through the programme in detail but it is worth highlighting, as others have done, some of the key aspects. For all of us the most important aspect is the focus on the economy. The first section in the programme is on the plans for economic renewal and economic recovery. It contains much that is to be greatly welcomed. In particular, perhaps the item that is most newsworthy is the renegotiation of the IMF-EU programme of support and the commitment outlined in the programme to seek a reduced interest rate, which as we know has been in the news daily since the Government was formed.

It is also welcome to see that the Government is deferring further recapitalisation of the banks until the solvency stress tests are complete. What we hear is that the news on the banks will be critical in terms of how we build recovery from there. It is prudent that we have deferred recapitalisation until we know more about the actual state of the banks.

On the other more positive aspects of the programme that will help build us towards recovery, some of the notable aspects are the establishment of the strategic investment bank, which was a core part of Labour's economic policy going into the election and which will bring about a great deal of improvement in credit flow for small businesses by allowing small businesses access to credit from a new source. The jobs fund and jobs programme were key to the programmes of both Government parties. The commitment to establishing and resourcing a jobs fund within the first 100 days is vital to the success of the programme. One of the most important aspects of that, which arose time and again for all of us on doorsteps, was the need to offer work placement and internship programmes for young graduates and young apprentices who are currently facing the awful prospect of forced emigration owing to there being very few job prospects here. It is very welcome to see 60,000 places being provided on a work programme.

From the perspective of Trinity College and the higher education sector, it is good to see the focus on international education. Under the heading "Economy", page 13 of the programme focuses on the need to ensure a higher number of international students. All of us in the third level sector are aware of the need to encourage and develop the status of Irish educational institutions abroad. Particular emphasis is placed on targeting students from India,

[Senator Ivana Bacik.]

China and the Middle East. The Minister will be aware that Trinity College certainly led the way with visits to India and China, which visits led to the active fostering of links. The law school in Trinity College, where I work, has links to Chinese institutions in particular. These links have been very worthwhile in terms of academic development and fostering interaction between the two countries, in addition to interaction between the two institutions. We are very conscious of that.

Let me examine some of the other commitments in the programme for Government. I take pleasure in seeing some of the items in respect of which I have been involved during my time as a Senator. Included is the commitment to introduce legislation to prohibit female genital mutilation, as referred to in page 47 of the programme. As the Minister may be aware, I introduced a Private Members' Bill in this House with that aim. It was accepted by the then Minister for Health and Children, Ms Mary Harney. I believe her last act before leaving her Ministry was to publish her own Bill on foot of mine. Its intention was to prohibit female genital mutilation. Given that my Bill has been drafted and was subject to extensive checking by various Departments, including the Department of Justice and Law Reform and the Department of Health and Children, and the Office of the Attorney General, I ask the Minister, Deputy Shatter, to commit to introducing it early this term. It is uncontroversial and received cross-party support in this House when I introduced it some months ago.

I am glad to see a commitment to increasing the number of women in politics. I am very grateful that the Minister mentioned this in his opening speech as a priority of the Government. I have worked on this and many others in this House have debated it. The Minister will be aware of the report I authored for the Joint Committee on Justice, Defence and Women's Rights on women's participation in politics. The report received unanimous cross-party support and one of its recommendations was that legislation be introduced requiring that no more than two thirds of the candidates selected by a political party be of any one gender, essentially providing for a minimum proportion of female candidates.

It was a matter of disappointment to us all that so few women candidates stood in the recent general election – the proportion was only 15% — and that there was no increase in the number of women elected as a result. Clearly, we need to be proactive in this regard. I am delighted the programme for Government recognises this need. It requires that public funding for political parties be tied to the level of participation by women as candidates for their parties. I ask the Minister to consider how this can be achieved through legislation. It must require legislation. The outgoing Minister of State, Deputy Mary White, had convened meetings with the general secretaries of all the political parties and the equality spokespersons to examine whether this could be achieved voluntarily, and whether each political party might buy into the process given they all recognised the need for more women in politics. However, unless there is cross-party consensus – it did not seem to be emerging in the meetings – legislation appears to be the best way to ensure parties increase the number of female candidates they put before the electorate. While it is up to the electorate to make a decision, we know from outcomes elsewhere that where more women are put forward as candidates, more women are ultimately elected to public office. I am glad to see women's participation is a priority.

I am glad to see there are many progressive commitments in the programme for Government on criminal justice. I welcome the first Bill published by the Minister, Deputy Shatter, the Criminal Justice (Community Service)(Amendment Bill) 2011. It goes a good way towards meeting the aims stated in the programme for Government under the heading, "Sentencing and Penal Reform". The Minister will be aware that the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, and I had prepared a Labour Party paper on penal reform, some of the commitments of which are contained in the programme for Government

and I am delighted to see this. I wish to highlight page 49 of the version of the programme I have, which contains an unqualified commitment to ending the practice of sending children to St. Patrick's Institution. I know the Minister agrees with this. Ireland has been criticised for many years by international human rights bodies for the barbaric practice of still sending children to this institution, which is long past its sell by date and is not fit for purpose. It should be closed immediately and we should end this practice. I am delighted to see the commitment put in our internal party policy by the Minister, Deputy Rabbitte, and it is also in the programme for Government.

I am also glad to see that mandatory sentencing laws will be reviewed because there is limited evidence as to their effectiveness. We should look at alternative means of developing a drugs policy. I welcome the commitment to switch from prison sentences and towards less costly non-custodial options for non-violent and less serious offenders. This is a very worthwhile aim in our penal system and sentencing regime. I very much hope it will be implemented.

I am very disappointed with some aspects of the programme. I am disappointed there is not a more serious commitment to implementing the judgment in the ABC case on abortion. It is a bit of a fudge in the sense that it is to be sent to an expert group. However, I am glad to see that legislation will be introduced on regulating stem cell research and on assisted human reproduction. These are issues on which previous Governments have kicked to touch for too long. However, previous Governments have also kicked to touch on the abortion issue for far too long and we now have a European Court of Human Rights judgment which we need to implement. I do not think it would require any more expert groups.

I wish the Minister the best in his role and in implementing the programme for Government. It is an ambitious programme in a very constrained and difficult economic time yet it contains much that is positive, and the aim that the new Government will be guided by the needs of the many rather than the greed of the few as stated in the statement of purpose at the beginning is an excellent guiding principle. I very much hope it will continue to guide the policies of the new Government throughout its full term in office.

Senator Donie Cassidy: I wish to share my time with Senator Leyden.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Donie Cassidy: I welcome the Minister to the House and I congratulate him on his appointment. He is a long-standing member of the Oireachtas and it is hoped his experience and expertise can be used in the interests of the people of Ireland over the next five years. I wish him well. I congratulate the Government and the Taoiseach. The people have spoken, as the Minister stated, and 55% voted in favour of the present Government and for change. This is what the programme for Government is about. It is good on identifying the broad areas which must be prioritised, with the achievement of economic recovery being by far the most important. This is to be welcomed.

Our economy can and will recover. It retains key strengths and enormous potential which can be realised in the years ahead. As someone who has a background in the business world, the potential hinges on confidence and hope. I must emphasise that the success or failure of the next five years will be decided in the 100 days in which the Government has an opportunity to bring forward its massive programme of change. At present, 53% of Irish people have no disposable income and are very heavily in debt while 47% of the population save 12% to 14% of disposable income, amounting to €94 billion in savings. We must encourage these people and give them the confidence to start spending and letting loose part of those savings of €94 billion.

[Senator Donie Cassidy.]

The economy hinges on making money available to SMEs from banks. More than 800,000 people are employed by small and medium-sized family businesses in Ireland but these businesses are being starved. This is the third year of the downturn. During the first year overdrafts were taken up by SMEs, and during the second year family savings were spent on keeping businesses going. This year there is nothing left and the Government must make the banks realise that if they do not play their part in ensuring the continued employment of those 800,000 people there will be a race to the bottom in job opportunities and in continuing to keep existing jobs. This is one area that must be addressed as a matter of urgency. A definite portion of whatever we give the banks, perhaps 20% of 25%, should be given to SMEs and those who have been giving employment for the longest time.

Senator O'Toole addressed the House on the issue of energy, most of which covered the notes I had made for my speech. Wave power, wind power and our geographical location leave us in a very advantageous position. The opportunities available to us to become exporters of energy in the next seven to ten years are mind-boggling. It is a no-brainer when one considers the billions of euro we spend every year importing oil. I support the call of Senators today for foreshore legislation which is urgently needed to allow this to happen. Senator O'Toole called for geothermal legislation and this is crucial. These Bills should be fast-tracked to give the private sector the opportunity to provide us with the massive energy export potential of which we know we can avail.

The programme for Government can and must be reviewed by Seanad Éireann on a yearly basis to see how it is working, how it will be changed and how the House can make proposals to help the Minister, the Department and the Government in the national interest. The electorate has spoken. Given the new, energetic movement behind Ministers because of the massive vote of confidence placed by the people in the Government for change, I look forward to it being made happen in the first 100 days, so Irish people can get back to work and we can start to be a productive, positive nation again. I welcome the role played by the media with the new Government and how positive they are in giving the Government a chance. They too can encourage citizens who have deposits to have the confidence to start spending them again in the national interest.

Senator Terry Leyden: I welcome the Minister, Deputy Shatter, to the House and I wish him every success. I know of his excellent work in bringing forward Private Members' legislation. He is ideally placed and qualified to be the Minister for Justice and Law Reform. I wish the Taoiseach well in representing Ireland in the negotiations tomorrow. He will have the green jersey on and we must back him 100%. It is in the national interest that we do so. As far as the programme for Government is concerned, we will analyse it as we go along but a certain amount has already been adopted by the Houses.

On a semi-personal matter, I want the Minister to look into clampers operating in the country. In the previous Dáil, the Minister for Agriculture, Fisheries and Food, Deputy Simon Coveney, issued a Private Members' Bill, the Vehicle Immobilisation Regulation Bill 2010.

An Leas-Chathaoirleach: We are dealing with a specific motion——

Senator Terry Leyden: I signed the motion.

An Leas-Chathaoirleach: ——on the programme for Government.

Senator Terry Leyden: I am asking the Government to include a very good piece of legislation put forward by Deputy Simon Coveney who is now a Minister. He brought forward a

Private Members' Bill in 2010 to outlaw these gangsters who were collecting money and clamping private cars in private car parks. I may have been affected in Galway last week. I came across other victims in areas which were not properly marked. The company is called APCOA and it should be investigated by the Revenue Commissioners——

An Leas-Chathaoirleach: Senator Leyden has no right to name people.

Senator Terry Leyden: I will use my last few minutes in this House to name and shame this company——

An Leas-Chathaoirleach: The Senator must not abuse his privilege; he must stick to the motion before the House.

Senator Terry Leyden: ——Neil Cunningham and Arne Molden from Norway and the company secretary Emma Hinchey. These people should be investigated by the Revenue Commissioners.

An Leas-Chathaoirleach: The Senator well knows that they are not here to defend themselves and that he has no right to abuse his privilege.

Senator Terry Leyden: I met a young man in Galway whose car had been clamped. He had run out of petrol on Main Street, pushed his car into a little car park and was clamped——

An Leas-Chathaoirleach: What has this to do with the programme for Government?

Senator Terry Leyden: I am very angry about it and want the matter investigated.

An Leas-Chathaoirleach: The Senator may well be, but it has nothing to do with the programme for Government. There are ways and avenues of raising such matters in the House. The Senator cannot use his privilege in this way.

Senator Terry Leyden: If I am re-elected to this House I intend to reintroduce and reactive this Private Members' Bill and will ask the Minister to support me in this regard. I want to use this House to expose what amounts to gangsterism. I am delighted I have got the matter off my chest.

Senator Eugene Regan: I welcome the Minister and congratulate him on his success and elevation to the important office of Minister for Justice and Law Reform. He has hit the ground running.

This is an excellent programme for Government to which I subscribe and support as a member of the Fine Gael Parliamentary Party. It has been adopted by two political parties, Fine Gael and the Labour Party, which have the interests of the country at heart. For that reason there will be cohesion and progress and co-operation between them in ensuring the programme is put through.

Given the problems the country is facing and the need to get out of the rut we are in as a result of the economic recession, the key word is "confidence". I refer to the events which took place on St. Patrick's Day in Washington and the extraordinary success of the Taoiseach in restoring the image of Ireland in the United States, given the importance of that country in attracting foreign investment and tourists to this country. Because of the damage done to Ireland's reputation the success of the Taoiseach's visit to the White House and other venues on that day was vital in presenting Ireland's views. The visit has done much to restore confidence in this country, show there is a way forward and that we can get out of our difficulties.

[Senator Eugene Regan.]

The Government has taken the first steps towards reform in the use of State cars. While the savings may be minor, this decision shows that the Government is serious about reform and wants to run a prudent and cost-effective ship of State.

The other issue I wish to raise is that of the European Union and the European Council meeting which begins tomorrow. The programme for Government is essentially premised on establishing a new arrangement with the European Union for the bailout and rescue deal drawn up by the previous Government. We were led into a cul-de-sac by it in its dealings with the Union. We hope, therefore, that the Taoiseach can achieve some success at the European Council meeting in order to reconfigure the arrangements agreed with the Union for the provision of support and funding, the rescue of the banking system and the improvement of the State's finances.

When we were in the process of adopting the Lisbon treaty, a previous European Council on 10 July 2009 in Brussels took a decision to give guarantees to Ireland on a range of issues, not least the issue of taxation, that nothing in the treaty would affect the Irish position on taxation matters. The conclusions of that Council expressly stated the decision in this regard was legally binding on the Community and that it would be included as a protocol to the next accession treaty. The pressure being brought to bear on Ireland's corporation tax rate of 12.5% is being exerted by President Sarkozy supported to some extent by the German Chancellor and unacceptable in circumstances where such a solemn guarantee and declaration were given to this country. If that were to be European Union policy, it would represent an act of utmost bad faith against this country. The Irish corporation tax rate is not the cause of the economic banking crisis. The issue of solidarity is also enshrined in the Lisbon treaty and must be highlighted. I hope small member states will support Ireland and the Taoiseach in his efforts at the European Council.

The point I make in this regard has been reported in an editorial in the *Financial Times* this month. It states the pressure being brought to bear on Ireland with regard to its corporation tax rate represents a dishonourable attempt to exploit the eurozone's debt crisis by bullying Ireland into accepting policies that, it is hoped in Berlin and Paris, will stem leakage from their own tax systems. The editorial suggests this is wrong on a number of accounts. First, the cast iron guarantee given to Ireland in the Lisbon treaty and, second, the economic crisis in Ireland were not caused by or contributed to by our corporation tax rate. It eloquently states France and Germany have no business in pinning Ireland to the floor when Irish taxpayers are picking up the colossal bill for the role the European Union played in Ireland's property and construction sector bubble. Raising the corporation tax rate would not improve Ireland's public finances.

This point has also been made by Mr. John Bruton, Mr. Peter Sutherland and, more recently, Mr. George Soros who stated this week that peripheral countries such as Ireland should not have to bear the entire burden of the cost of adjustment. There is an issue of good faith. In the context of the guarantees given to Ireland, I hope this will be taken into account in the deliberations of the European Council this week which is the elephant in the room as regards the programme for Government and the ability of the Government to get the economy back on track.

Senator Dan Boyle: The mandate so emphatically won by the Government must be acknowledged as the 23rd Seanad comes to the end of its life and a new Seanad will soon take its place. That the people have spoken so emphatically on the need to change horses is the political reality that cannot be denied. It is a matter for debate whether they have chosen to change course. While many decisions have been made in the past few years which have been

uncomfortable and unpopular, it is not clear, even from this programme for Government, to what extent any of these decisions can be changed, given the underlying and prevailing circumstances in the economy.

If that sinks in eventually, perhaps we can have more open politics.

I acknowledge the attempt to at least address one of the more open failings of the previous Government in not being successful with the reform agenda. If it had been addressed, it would have ameliorated much of the public discontent that was allowed to grow and fester. That said, as someone who was involved in the negotiations on the previous programme for Government and its review, I do not see much new in this document. It repeats much of what was included in the previous two documents, which is good. Some of the changes and reforms need to be implemented and having such a strong mandate gives an opportunity to achieve such change.

On the fiscal situation, the reality will soon dawn that what was being done was very much what could be done in the circumstances. We are very much a hostage to factors that are global and related to our membership of the European Union. Having listened to Senator Regan's contribution, we also need to acknowledge that as a country and an economy we are very much a victim of internal politics within the European Central Bank. Many of our difficulties stem from our membership of the euro currency. We need a wider debate on the effect of membership of the currency on peripheral countries in the eurozone. I acknowledge the point just made about Mr. George Soros and the predicament in which we find ourselves. There is inconsistency in the approach of the European Commission and the European Central Bank in maintaining the Maastricht criteria when countries such as France and Italy have been grossly out of line in their budget deficits in recent years without any action being taken against them. We may be inclined through a sense of national inferiority to say we are being treated differently and worse, but there is undoubtedly inconsistency in the way the European Commission, the European Central Bank, the leading and larger members of the European Union, particularly the German Government, are stating how Ireland should be treated.

It is disappointing that the programme for Government does not go to the heart of the issue on public service reform. Many Members have views on the cost of the public service, the impact of these costs and the efficiencies or otherwise in the delivery of public services. Real reform of the public service needs to go deeper. While we have very many committed and able public servants, there is at the heart of the culture of the Civil Service a kind of sclerosis that prevents real decisions being made in real time to the detriment of whoever is in government at a given time. If the programme for Government is to be grounded in reality, it should tackle that reform in the most immediate sense.

The appointment as Attorney General of the first woman to hold the post is welcome. The person concerned will be a key member of the Cabinet. Without personalising the issue, the interaction between the Cabinet and the Attorney General on what is constitutionally and legally possible when wanting to implement policy is at the heart of government. The delays are a source of great frustration and go to the heart of much of the inactivity in the life of any Government. I hope the new Attorney General will be a vital engine in achieving what the Government wants to achieve; she has a very important role to play.

The biggest disappointment for me is in the area of political reform which the Government with its huge mandate is in a particular position to achieve. It is a great irony that having committed itself to the abolition of this Chamber following a referendum — something that now seems to be the policy of every other political party — other issues of political reform are kicked aside into the constitutional convention which seems to be a kind of limbo or purgatory for the idea of any real political reform being achieved. I am also concerned that while there

[Senator Dan Boyle.]

is a specific commitment to introduce legislation to ban corporate donations — legislation already prepared could be introduced next week if the Government was so minded — today the Minister spoke about legislation to ban corporate donations to political parties. We need clarity on the issue because if that leaves the door open to corporate donations to individual politicians, it will totally negate the idea of having legislation to ban such donations. If it is an attempt to define corporate donations as being business-related only and ignores other corporate bodies such as trade unions, it will also water down the concept and effectiveness of legislation in this area. Therefore, the matter needs to be monitored carefully.

Some of the items listed for the constitutional convention can be dealt with by way of direct legislation without the need for a convention. With proposals on the number of Members of the Dáil, the length of the presidential term, the participation of women in public life and reducing the voting age, I cannot understand why the convention is being suggested unless it is for the reason of delaying and ensuring many of these things do not happen. I like to think I have a liberal bent and my party has a policy on same-sex marriage. I appreciate there might be discomfort on the issue, with people having different opinions, and that there may be a need for a wider public debate, but every other issue mentioned by the Minister proposed for the constitutional convention could and should be dealt with directly by a Government. That fact that it is not can only be portrayed as an attempt to avoid these issues. That said, if the Government achieves its objectives in the reform of the Dáil, in particular, reducing the number of Oireachtas committees and giving them more powers, its work and that of the 31st Dáil will be successful.

Notwithstanding the Minister's comments about the contribution of this and previous Seanaid to the political life of the country when there is a debate and referendum on the future of this House, I hope it is not what the Minister says it is really about, a symbolic act. If the Government's policy on not having a second House of Parliament is about a symbolic act to appease a general feeling among the public, that is a shameful statement on which to start such a referendum.

Senator David Norris: Hear, hear.

Senator Dan Boyle: I hope there will be a more serious intent and purpose before we have such a debate.

Senator David Norris: I congratulate the Government on its very remarkable victory. It is an endorsement that it has produced a most interesting programme for Government. I congratulate the Minister on his success in his election which I watched with great interest. I took considerable pleasure, entertainment and delight in certain aspects of his very feisty campaign. I am very glad that proper vote management resulted in the election of Deputy Mathews. I am sure the Minister will agree that he is a most remarkable man who has advised me and others in this House on the economic situation. He has been a beacon of intelligence and I am delighted he is part of the victorious Government.

There were suggestions that there were divisions — there were obviously separate interests — between the Labour Party and Fine Gael, but as happens almost inevitably, these have been brought into alignment and it has the possibility of being a very successful Government. I will not speak at any great length because we had the opportunity earlier having met once since the general election to debate the very important matter of the Bill concerning the construction industry introduced by Senator Quinn. I would like the Minister to give an undertaking to the House that this will be carried through to completion as it deals with an extremely important matter. It shows the Seanad has much more than a symbolic function to perform. I accept

absolutely what Senator Boyle has said that such a reference underestimates the significance and value of the Seanad.

I would welcome the Minister giving to the House information on the priority to be given to mental health services. One of the matters we will be discussing today is a mental health Bill concerning the specific matter of the use of electroconvulsive therapy, ECT, on patients who have not given their consent. It is an attempt to discontinue this practice which is generally regarded as being unhelpful. We need a full and thorough revision of the mental health Bill and an examination of the role of mental health in this country. I have been surprised and heartened by the way in which people have responded to initiatives I have made in recent weeks in the area of mental health.

I respectfully ask the Minister to take back to Government the hope from this House that however long Seanad Éireann survives it will be treated with respect. It has not been treated in such a way in the past by any Government that I can remember. It has been abused very considerably and the ordering of business has been chaotic. We have just learned within the past half an hour that we will meet again tomorrow. As a busy man, the Minister will understand this is very difficult and I am not sure who to blame. It is the way the Seanad has been run for the past few years and it is simply not acceptable if we are looking for a professional level of commitment.

I tabled an Adjournment matter for today but for some reason we are not allowed to have Adjournment debates. No proper reason has been given to me and the matter I would have taken up is the question of the way in which our entire hotel industry is being undermined by hotels being run in the interests of NAMA. They can compete in an unfair manner because they can introduce below-cost pricing. That will destroy the family hotel business in Ireland. I would like the Minister to examine this. Will he examine the possibility of bringing the Competition Authority into the equation? It is very clearly unfair competition.

With regard to current difficulties, obviously matters concerning the tribunal are not going to be heavily advertised here today. On a matter of principle, a Labour Party Minister, Justin Keating, introduced principles known as the Keating principles which meant the Irish people reaped the rewards from our natural resources. I would like this Government to revisit those principles in order that the Irish people would benefit. The reason I mention this in the context of the tribunal is that I cannot take sides on the issue.

It seems to be a very confused business and raises the question of whether tribunals that last 13 years, cost hundreds of millions of euro and have to apologise during the course of their investigations for errors that have been made are good value for money. I am not capable of answering that, but I have to raise the matter. Why do we sell utilities such as this if an individual — I cast no blame on the person, he is a very decent man — can make €250 million and his partners, a Swedish telecoms company, can make €1 billion out of our utilities? Why should the taxpayer not benefit? Imagine how many schools and facilities for the intellectually challenged could be built with that money. I would like the Keating principles to be revisited.

I am glad my friend Senator Boyle mentioned the Civil Partnership and Certain Rights and Obligations of Cohabitants Act. I know the Minister has played a useful role in these matters, going back a very long time. We do not always see eye to eye and I am quite sure we will continue not to see eye to eye, but that is what makes life interesting. The Minister will correct me if I am wrong but I believe he was one of those in Fine Gael who stood out and filibustered against rather mean minded amendments tabled by his party. That took moral courage and if I have not thanked him publicly, I would like to do so now. Nora Owens, Mary Banotti and various other people were also involved, and I salute them for having done that. I hope the 150 amendments that would give teeth to the implementation of the Act are passed. I ask the

[Senator David Norris.]

Minister to remind the Government that I got a commitment that the amendments would be retrospective.

This Government will probably be *in situ* for the anniversary of 1916. I hope I will be here as well, either in this House or in a more elevated position. I say that because I know some people have said the men and women of 1916 were terrorists. I would like to have the opportunity in 2016, in whatever position, to scotch that and say they were not terrorists. They were people of prophetic vision and extraordinary chivalry. I know what a terrorist is, it is somebody who uses civilian casualties and delights in gore to advance his or her political agenda.

When Pádraig Pearse saw there was an increase in civilian casualties he cancelled the Rising. Everyone can support the ringing words of the Proclamation to cherish all the children of the nation equally. One of the ushers in the House pointed out to me that in 1916 women did not even have the vote, yet the men and women of 1916 addressed the Proclamation with full equality to Irishmen and Irishwomen. I hope I will be here in some official form in 2016.

It was wonderful to hear the Minister speak about the visit of President Obama. Well done to President McAleese who was blown out of her house in the Ardoyne and who reached out to the Orange people and invited Queen Elizabeth to come here. If she can do that who can dare to naysay her. Roddy Doyle has a wonderful imagination and took the idea of a man with his two children telling them he was under a black dog of depression and that they were to shout, "Brilliant". That is what we need.

I will end on a contentious note. As one who was instrumental, as I am sure the Minister knows, in establishing the first Israeli ambassador here, I welcome what his colleague said, namely, that he hopes during the period of this Government to be able to recognise an independent Palestinian state and perhaps have an embassy for it here in order that the representatives of the Palestinian and Israeli people can meet as equals in diplomatic service in this country which has resolved similar problems.

Senator Mary M. White: I wish to share time with Senator Ormonde.

Acting Chairman (Senator Maurice Cummins): Is that agreed? Agreed.

Senator Mary M. White: I welcome the Minister and congratulate him on his very successful election campaign and triumph in bringing in three candidates with him. It was an excellent result and it is to be hoped we will be able to do the same in the future.

I speak here today as the democratically elected nominee to the Oireachtas of the Irish Exporters Association and co-founder of an export driven company in the agrifood sector, namely, Lir Chocolates which started in the kitchen in a house in the Minister's constituency in Dundrum just over 20 years ago. Today it employs 250 people in Navan and creates tremendous economic and social benefits for the people of Navan and County Meath.

When one examines the different contributors to the Irish economy in the forecast for this year one will find they are all negative, with the single exception of exports of goods and services. Consumer spending, Government spending and capital investment are all expected to decrease in 2011. The only bright spot in the entire economy is the positive record and promising outlook for exports of goods and services which is projected by the ESRI to grow by 10%.

I take this opportunity to highlight the potential of two exporting sectors. The agrifood sector in which I am directly involved has demonstrated great resilience. Exports grew by some €500 million last year to €6.8 billion. They are projected to be buoyant again this year, based on global demand and its proactive and entrepreneurial approach in foreign markets. I would like to acknowledge the contribution of the staff of Bord Bia and its chief executive Mr. Aidan

Cotter. The initiative of the former Minister, Brendan Smith, six months ago in the Food Harvest 2020 programme highlights the enormous output and export potential of our indigenous agrifood sector in the coming years.

The second export area I would like to emphasise is tourism. It brings in additional spending to every part of the country and the severe fall of 30% in tourism revenue since 2007 has been felt in every county. As other economies recover and we become more competitive, tourist numbers and revenue are projected to recover from this year on. Every county, in co-operation with Fáilte Ireland and Tourism Ireland, can add revenue to their areas by promoting their tourism and heritage attractions. As I travel around the country on my Seanad election campaign, my mantra for the Seanad is inspiring hope, I speak to the county councillors about the opportunities they have to promote heritage and tourism in their areas.

There is a very serious issue to which I wish to draw attention, namely, the plight of the location of the world's first duty free shop and the world's first industrial free zone, Shannon Airport and its hinterland. Aer Lingus ceased flying to the US via Shannon from January to March 2011 and exporters in the region had to ship their goods to Dublin before getting them bound for the US. It is time for a fresh and imaginative look by the new Government at Shannon, its regions and its future.

Senator Ann Ormonde: I will be very brief. This is an opportunity to discuss the programme for Government. I compliment Senator O'Toole for initiating this discussion at this time. I wish the Minister every success in his role and I look forward to returning to the Seanad and having many debates with him on this issue. Hopefully, this is not my last speech in the Seanad.

There are two areas I wish to address and which I have touched on many times, one of which is political reform. I want the future of politics to be about policy issues. There are very fine people on all sides of the House who can discuss and, perhaps, place a different emphasis on policy issues. For the future, let us get away from the political, personal assassination that has taken place down through the years. I want no more of that. We are into a new era of politics. I want honesty and I am glad the Taoiseach has expressed the concept of honesty and integrity. I want that to be part of the politics with which I grew up. I do not want any more of this flip-flop across the floor where nobody can be heard at the end of the day, where the item of the moment is discussed on the Order of Business and, therefore, nothing else happens. It is used in order to get media coverage. I do not want that in politics.

The other area in which I have an interest is that of education, be in preschool education, the five-year plan at second level, in-service training, how points can be initiated for mathematics, third level and back-to-education and how that filters through into the education system. There are many courses that are defunct and should be scrapped. Let us look again at that whole area of the concept of back to education.

Senator Paul Bradford: I welcome the Minister, Deputy Shatter, to the House. A long journey in politics has brought him here and I wish him well over the next five years. I am sure he will address this House on many occasions and bring forward many pieces of legislation.

The recent general election was a watershed — all the clichés have been used. The main reason the public cast such a strong opinion on election day was that the Irish economy was broken and a new beginning was required. Not only has the economy been broken but over the past decade or so, politics in Ireland has been broken.

The rebuilding of our country is not just about an economic solution, we need a rebuilding of trust and confidence in the political system. Much of the programme for Government relates to political reform. If the programme for Government is taken to the ultimate conclusion this House will be abolished. I ask the Minister and his Government colleagues in the course of

[Senator Paul Bradford.]

the next few months, in advance of final decisions being made, to reflect on the value of the second Chamber, the Upper House. There is a proposal to abolish the Seanad by way of a referendum to be put to the people in the autumn or shortly afterwards. I hope the Minister and his colleagues will be courageous enough to reflect on the possibility of allowing the people a preference under which they could decide to abolish the Seanad in its current format, amend the way in which Members are elected and how the House works or, if they so desire, leave to allow the present situation continue.

If we are true believers in democracy I do not know any country where people have benefited from less democracy rather than more democracy. If we are to offer the people a choice in regard to how the country is run and the type of political structures in place, it should not be an either or, there should also be the option of the reform of this House, which I hope would be given some consideration. The overall package of political reform is one with which I generally agree. However, that political reform must begin and end with Dáil Éireann. I note that the constitutional convention will need to reflect on the possibility of changing the electoral system and making suitable arrangements in that regard.

Any fair student of politics in Ireland would concede that our electoral system to Dáil Éireann simply is not working and has produced not only politicians but a political party system and policy making formation which have left the country in its current economic mess. There is an urgent need to change our electoral system. It is fair enough for the constitutional convention to consider comprehensive constitutional change, including a review of the Dáil electoral system, but I hope there will be a strong recommendation from Government to that convention to come up with an alternative system of electing the men and women to represent us in the Dáil. The need to reduce the number of Dáil Deputies will be looked at and one could argue for a small reduction in the number of TDs. While the electoral system may have satisfied the needs of our country for 40 or 50 years after the foundation of the State, we need to elect a different politician to face the economic, social and other challenges. Electoral reform must be at the top of our agenda. Seanad reform can be seen as the full picture. Electoral reform is a much bigger issue than Seanad reform.

I ask the Minister to take back to his Government colleagues the need to significantly strengthen local government. While this is mentioned in the programme for Government, local government can be at the core of rebuilding society through local partnerships, local enterprise boards, etc. Local government is powerless and cannot raise revenue while, simultaneously, various quangos, partnership boards and various Leader groups have access to tens of millions of euro without the type of accountability which covers local government. I hope we will examine local government and strengthen it. Courageous decisions will be required if we are to seriously reflect on the future of town councils. There is no point in pretending that town councils in their current format are serving the needs of the country. A major review of local government is required. We have been talking about this major review of local government for the past two or three decades but it simply has not happened. While the Government has a huge economic task on hand, in one sense its economic choices are limited and no matter who is in government during the next four or five years, there is only one economic road to travel and, unfortunately, that is a tough and difficult road. There are serious choices to be made in regard to political reform and local government and I want to see that happen.

I wish to express one item of concern. While I welcome the creation of a Department of children and the appointment of our former colleague and Fine Gael leader in the House, to the portfolio of Minister for children, on the other side of the spectrum the question of older people from a ministerial perspective seems to have disappeared. In previous Governments there was a Minister of State with responsibility for older people. I recognise that services

pertaining to older people come within the ambit of various Departments but at an early opportunity I would like the Government to make a strong statement on older people and, perhaps, in the formation of the new policy committees within the House, one committee could look at the problems, challenges and issues facing older people. We need to make a strong political statement about the way we as a society value older people. We, along with the Minister, have reflected on the inevitable need for a constitutional referendum to protect the rights of children. Perhaps when the Minister has time to consider it further, he might look at the other end of the spectrum. We should think about the possibility of a constitutional referendum to protect the rights of older citizens. From a political leadership perspective, I would like one of the new Oireachtas committees to take responsibility for older citizens and all the services which relate to them.

Senator John Carty: May I share time with Senator Mooney?

Acting Chairman (Senator Maurice Cummins): Is that agreed? Agreed.

Senator John Carty: I welcome the Minister, Deputy Shatter, and wish him well in his portfolio over the next few years. I wish to speak specifically on agriculture, which is my forte. It is good that this Government, like the previous one, is taking Common Agricultural Policy, CAP, reform very seriously and that it is its aim to ensure the envelope will be to the benefit of Irish agriculture. The negotiations which have taken, and will take, place before the final package is produced will be vital for Ireland. The new Government should get cross-party support in getting the best deal for Ireland. This is a time when the green jersey must be worn. I acknowledge that in the many debates on agriculture in this House, there has always been constructive debate and support from across the benches. The negotiations will be hard and we must strongly support each other.

In the Food Harvest 2020 report, the previous Minister for Agriculture, Fisheries and Food, Deputy Brendan Smith, identified beef and dairy as areas where there will be room for huge expansion. I am delighted this also gets special mention in the programme for Government.

It is important the agriculture sector is strongly supported and that production is kept at a maximum with guaranteed prices for the product. Ireland has a wonderful reputation for producing the best of quality food from a very good clean environment and we must build on that. With a rising world population, there will be a food shortage. Indeed, at one point last year, we were told there was only 26 days food supply left in Europe, so it is imperative we are allowed to produce quality food, getting a fair price and support for doing so.

I note also that the Government will prioritise a programme of law reform arising out of recommendations made by the Law Reform Commission. Where will legislation to ban a number of unfair trading practices in the retail sector, such as so-called hello money from food suppliers, be on the list of priorities? I hope it will be high on that list and I would like the Minister, when replying, to tell us where it will be.

The programme for Government states that building on the existing Food Safety Authority of Ireland, the Government will create a single food safety monitoring agency responsible for food safety inspection from farm to fork. I hope this will not be another layer of bureaucracy and red tape. I ask the Minister to ensure this does not happen.

I congratulate the new Minister for Agriculture, Fisheries and Food, Deputy Coveney, and wish him well in what will be difficult negotiations in Europe. I will not be a Member of the next Seanad but I urge the Members of it to give the agriculture sector their full support. I wish all my colleagues and friends seeking re-election the very best of luck in the forthcoming election.

Senator Paschal Mooney: I thank my friend and colleague, Senator Carty, for kindly sharing some of his time. I endorse a view expressed by Members on this side of the House, which I am sure would be endorsed by Members opposite, thanking Senator Carty for his wonderful contribution as a public representative in both Houses of the Oireachtas and at local level and wishing him and his family well in the future.

I welcome the Minister, Deputy Shatter. As someone who I have called a friend for many years, having served with and under him on the Joint Committee on Foreign Affairs, I am delighted he has been promoted. The merit of his office is unquestioned and a long overdue acknowledgement of his capacity as a public representative and in his own field of work. I wish him every success in the future.

I wish to follow on from what Senator Carty said about the importance of the agriculture sector to the majority of people living outside the larger urban areas on the east coast. As Senator Carty said, it is vital we continue to wear the green jersey in this regard. The negotiations will be very difficult and other forces within Europe will prove hostile to the continuation of CAP. I mention also the debate on the Mercosur countries and the importation of beef.

I welcome in the programme for Government the establishment of a strategic investment bank to help small businesses which will be under the control of my newly promoted constituency colleague, the Minister of State, Deputy John Perry. Again, it is a well deserved promotion and acknowledgement for the Minister of State. I hope this bank will be set up as soon as possible within the 100 days. I welcome the new Government and wish it well and a fair wind. It has started well and I hope good luck continues for it.

Senator Eoghan Harris: I welcome the Minister and congratulate him on his appointment. In one respect at least, I strongly welcome his proposal to cut down on custodial sentences. I have long believed that a distinction should be made between crimes against property and crimes against the person. I see no reason crimes against property should be punished by jail sentences, except perhaps in the cases of bankers who cause a whole nation to go into economic meltdown. Otherwise there would want to be very strong arguments for imposing custodial sentences.

Having said that much to the Minister, who is one of the people who defines what it is to be a professional politician and who has given such great service in the Oireachtas, it is about the last kind thing I will say to him because he is one of the primary architects of this coalition Government. From the beginning, he made it clear he wanted the Labour Party in it.

There is no particular merit about a strong or stable government unless it takes on very difficult and controversial measures. Some of the best governments in the world have been minority governments. Fine Gael funk'd governing as a minority government and implementing the controversial measures of which I speak. Like a steeplechase, every government which comes in faces a Becher's Brook. The Becher's Brook this Government faces is not the banking crisis because that is largely out of our control. I may be proved wrong about this but I predict that no major move will be made in Europe. I believe the European banks behaved irresponsibly here but nevertheless *realpolitik* indicates we are getting money — the bailout — at a fairly decent interest rate. We will have to pay it and short of a long-term restructuring of the debt over a long period of time, we will not get much from Europe and we must stand fast on the corporation tax rate. That is the bottom line. That is not the Becher's Brook this Government faces.

The only value in having a strong and stable government is that it would be able to tackle to the real Becher's Brook which is avoided by every government in this country, namely, reform of the public sector, particularly the difficult part of that reform, that is, freezing wages

and pensions in the public sector until the private sector catches up with it and passes it out. Government must face the fact that €20 billion must be found every year, the bulk of which goes out in public sector pay and pensions and in social welfare. I may be a former socialist but I am not one for hitting the social welfare class but I am one for hitting the public sector. I do not want it done in any kind of catch-as-catch-can shotgun way. It is not beyond the wit of man to devise a system where public servants who are giving value for money are rewarded rather than those who are not. I am afraid there are many thousands of time wasters and time servers in the public sector. I could give chapter and verse about the scandals in the public sector, which are innumerable. We heard about another one in recent days — the privilege days — in which this incredible arbitration was delivered that stated one could not take the days back because it might cause a sense of grievance. The whole point of having this huge Labour Party majority is to impose a sense of grievance on the public sector. I want all of them to be grieving, all of the time servers and time wasters, who come in at 10 a.m., go on a tea break, take another in the afternoon and close up at 4 p.m. We have all been through this with the public sector.

On the general theme of political parties, do not hit me with the nurses, firemen, doctors and gardaí. Gardaí and nurses are well paid by European standards. They do not deserve pity. As I said, those who do are in the private sector, those who get into lorries and cars to commute, who bring their children to the crèche every morning, who are paid one third less than those who work in the public sector who are in pensionable and permanent employment. I repeat that it is not beyond the wit of man to devise a system whereby those doing a day's work will be rewarded. There should be no mercy shown to those in the public sector who have been drawing down in this brutal recession €1 billion in increments and long service payments just because they are in a job.

A sum of €20 billion must be found every year. As far as I can see, the dodge of the Government, as it was of the previous Government, is to do anything except to bell the cat of the public sector. Let me predict something for the Minister, Deputy Shatter. If it is not done by the Government, it will fall and have a shadow over it. Every Government has what Napoleon called a hinge, a door to push in. If the door of public sector reform is not pushed in by the Government, in spite of having a vast majority, it will be a disgrace. What is the point of having such a huge majority? A huge majority is of no value unless one delivers hard medicine.

Our bankers are facing jail; it is clear where the process is leading. The builders, the so-called capitalist class, are on their last legs. There are no groups in this country that are as well off now, in relative terms, as huge sections of the health executive and local authorities — workers with their days off for Puck Fair and Punchestown. How must this seem?

These are my last remarks to this Seanad. I am not seeking re-election and will not want to serve if I am appointed. I have an appointment with a radiographer tomorrow. I want to say what I believe about what happened in the past few years. It stemmed from two things, one of which was a lack of a sense of humility. We in the political class did not have the humility to cut our wages and change our conditions fast enough to appease the public. It would not have solved the crisis, but everything was done too late and too slowly. The obscenity of political pensions and salaries, particularly the pensions paid in the past few months, and judges not taking cuts were the matters that really drove the public mad. As the saying goes, *Ní hé an bochtanas is measa duinn ach an tarcaisne a leannan é*. They might have coped with the crisis in the banks somehow, but seeing Ministers depart with huge pensions was the obscene insult that really galled them.

Senator Mary M. White: Hear, hear.

Senator Paschal Mooney: Hear, hear.

Senator Eoghan Harris: That stemmed from a disease that I call the sense of entitlement all over the national bourgeoisie, predominantly a Catholic bourgeoisie who seem to have lost all Christian principles. The Seanad was set up primarily to provide a forum for Protestants. It was a tragedy that we did not persist with this because if there is anything for which the Protestant tradition is noted, it is a sense of private conscience. They are not all saints, but, by and large, there is a sense of public rectitude and conscience and it is sorely missed in Irish public life.

It would be a barbaric act to remove the Seanad which costs comparatively little——

Senator Mary M. White: Hear, hear.

Senator Eoghan Harris: ——and offers us a chance to restore that Protestant tradition, this time from Northern Ireland, to inject into the Irish body politic that sense of rectitude, common decency, value for money and private conscience, without which no reform is possible.

I am not one who believes in all of the highfaluting stuff about a new republic. Legislative reforms will not guarantee good politics. That is a platonic delusion. Aristotle stated that unless there was a change in the human heart, there could be no social change, or as I say, unless there is a change in the sense of entitlement of the middle classes who swan off to university. It is disgraceful that the Labour Party still has not introduced fees to rectify the class injustices. In its carry-on about fees it is the party of the privileged classes. It is also protecting among the privileged classes the public sector.

Acting Chairman (Senator Paul Bradford): I must ask the Senator to conclude.

Senator Eoghan Harris: Who will look after the 1.3 million workers in the private sector, the donkeys, who actually get up in the morning and keep the country at work? Fianna Fáil has an open goal. With 1.3 million people looking at it and no leadership being provided, it wonders where it will find a political agenda. I know where it will find it. If I was a young man again, I would be back in power on the back of the private sector. I appeal to Fianna Fáil bring to an end the injustices.

Acting Chairman (Senator Paul Bradford): The Senator might conclude.

Senator Eoghan Harris: I warn the coalition that if it continues with its large majority and does not tackle the public sector, a few years from now it will be before the bar of Irish public opinion and the verdict will be “guilty”. I hope that will not happen. I wish the Government well. I backed it in my writings, but I will not support it on the grounds that it is stable. No, what I want to see is a radical, revolutionary and reforming Government.

Acting Chairman (Senator Paul Bradford): I think Senator Ó Brolcháin is sharing time. He might indicate if that is so.

Senator Niall Ó Brolcháin: That was a great speech. I hate following Senator Harris, as it is an appalling task. I wish to share my time with Senators Coghlan and Healy Eames.

Acting Chairman (Senator Paul Bradford): I will confine Senator Ó Brolcháin to approximately two and a half minutes.

Senator Niall Ó Brolcháin: It is a case of loaves and fishes.

Senator Fiona O'Malley: Is that the Government side of the House?

Acting Chairman (Senator Paul Bradford): It is.

Senator Niall Ó Brolcháin: I am sitting on this side for the moment, if that is okay.

Senator Fiona O'Malley: In that case Senator Ó Brolcháin is not really entitled to share his time with Members on the other side of the House.

Acting Chairman (Senator Paul Bradford): Senator Ó Brolcháin is so entitled, at his discretion.

Senator Niall Ó Brolcháin: They asked me, politely.

I do not have much time and want to concentrate on two issues, one of which is one of the few matters I very much welcome in the programme for Government. I very much respect the fact that the Minister, Deputy Shatter, is present. He has done a great deal of work on the children's rights referendum, which I am glad to see mentioned in the programme for Government and want to see happen. There are many other political reforms that I also want to see take place.

Like other Senators, I welcome the reference to the investment bank which is absolutely necessary. I have spoken on the issue on many occasions. I note that the new Government is keeping NAMA. It is no surprise in a way but disappointing considering the various statements made about it in this and the other House.

Fine Gael's jobs strategy was to create 100,000 new jobs under the NewERA document. I note that job creation is the key issue in the programme for Government, rightly so, but why is there a Minister of State to oversee the creation of 100,000 new jobs? The Minister is correct that new jobs can be created in the next few years.

It appears from the way the document has been written that the Government does not rule out the possibility of nuclear power being one of our energy sources in the future. I ask the Minister to clarify the matter. When he speaks about new technologies in the energy sector, is nuclear power included? Fine Gael's NewERA document certainly skirts around the issue. It speaks only of water services, forestry and wind energy, in respect of which significant progress is to be made. However, radical reform is needed.

I certainly want to see the Seanad being retained. Any candidate in the forthcoming election should nail his or her colours to the mast. If he or she wants to get rid of the Seanad, why is he or she standing for election? The Seanad is an important oversight body.

I note that in the programme for Government there are approximately 14 references to Oireachtas as opposed to Dáil committees. How will this happen if there are to be no Senators? There are two references to Senators in relation to European Union documents, etc. How will this happen if there are to be no Senators if the Government is to abolish the Seanad? It will not be possible to implement the programme for Government if the Seanad is abolished.

I very much welcome the references to cloud computing, given that social welfare and Revenue services are not linked. IT is the key in achieving political reform of the Oireachtas, the Government and the public service. I, therefore, encourage the Government to make IT a key issue in introducing reform.

Senator Paul Coghlan: I very much welcome the programme for Government. I also welcome the Minister to the House. He is a man with a vast wealth of experience, both legal and political, and I wish him well. He is well placed to introduce some of the reforms mentioned and to contribute to all of the others.

[Senator Paul Coghlan.]

Never before in our history have so few inflicted so much damage to so many in the country and our reputation. Given what has happened with our banking system, which is on the floor, I find it abhorrent that people from the five institutions that are participating in NAMA have managed to escape the net. It is wrong that many senior people who were responsible for much of what went wrong are now managing those assets on an agency basis. Those people should have been removed some time ago. I do not know how some of them have escaped the net. It is shocking that people in business are being denied lines of credit and that existing systems are being reneged on, reviewed or cut back, rather than renewed. It is wrong that the banks are trying to damage the credit of people in profitable businesses, who have to meet certain commitments. The banks are trying to injure them as they try to go about their business. I hope Mr. John Trethowan and his colleagues in the Credit Review Office become more pugnacious in their dealings with the financial institutions.

I would like to conclude by speaking about the proposed establishment of a judicial council. I welcome the appointment of the Minister, Deputy Shatter. He is the right man in the right place to make the necessary constitutional amendment to allow the Government to reduce the pay of the Judiciary in line with other public sector reductions. A small minority of judges have not accepted reductions. Who do they think they are? Nobody — not even members of the Judiciary — is above the law. A tiny fraction of those concerned are giving great offence to the Chief Justice, the President of the High Court and many of their colleagues to whom we have all spoken. Many members of the Judiciary are so upset by the actions of a tiny minority of their colleagues. People in privileged positions are meant to serve society like the rest of us, but some are leading by shocking example. I look forward to the Minister, Deputy Shatter, leading that reform in whatever way he deems appropriate.

Senator Fidelma Healy Eames: I thank Senator Ó Brolcháin for sharing time with Senator Coghlan and me. I welcome the Minister, Deputy Shatter. It is lovely to see him in the Minister's chair. I compliment him on the work he did as part of the team that negotiated the programme for Government. I wish him well. I compliment the Taoiseach, who has started so well, on the many brave decisions he has taken to date. I refer, for example, to this morning's decision to refer the Moriarty report to the Office of the Director of Public Prosecutions and the Garda Commissioner. That is the type of new politics the country wants to see.

I endorse many of Senator Bradford's words on electoral reform, which is critical. We need to examine whether the system of proportional representation is the best one for this country, in the context of the overall programme of political reform.

I would like to refer specifically to the emphasis on education in this document. I am delighted that Deputy Quinn is the new Minister for Education and Skills. We worked together for the last few years on the Joint Committee on Education and Skills. I am particularly pleased that learning outcomes are being emphasised by the new Government. The OECD has clearly said that high learning outcomes represent the key to a nation's economic growth and a person's personal growth, including his or her prospects for a good future. The programme for Government states that a "longer term aim of this Government will be to position Ireland in the top ten performing countries in the OECD Programme for International Student Assessment". That will need more than talk — a great deal of dedication will be required.

I heard Senator Harris talking about the public service. We need our teachers to be committed public servants and professionals of the highest calibre. It is absolutely critical that we improve learning outcomes. I am delighted that the Government intends to make literacy a national priority. It will ensure more time is devoted to literacy in our schools, teachers have

appropriate skills and national literacy plans are implemented. That will need to be monitored closely.

Acting Chairman (Senator Paul Bradford): I ask the Senator to conclude in line with an order of this House.

Senator Fidelma Healy Eames: I will do so after I have mentioned the need for information and communications technology to be a strong part of the new education plan. We are losing jobs by the new time. Our graduates are unable to fill some 800 jobs in this country because we are not starting correctly with information and communications technology.

The only slightly negative thing I would like to say relates to the reform of the higher education and third level sectors. Where is the funding mechanism in that regard? That needs to be looked at seriously. I am concerned about it. How can we have high learning outcomes if we do not have a means of funding third level education? It costs €2 billion out of the €32 billion or €34 billion that we take in.

Acting Chairman (Senator Paul Bradford): I ask the Senator to conclude as it is time for the Minister to reply.

Senator Fidelma Healy Eames: I look forward to hearing his reply.

Acting Chairman (Senator Paul Bradford): I apologise to Senator O'Malley as there is simply no more time available.

Deputy Alan Shatter: I thank Senators from all sides of the House who participated in this debate for their generous comments. Most of those who spoke expressed their support for the programme for Government. As a new Minister, it is a particular privilege for me to represent the Government for the first time in the Seanad. I have not yet had an opportunity to engage in a debate in the Dáil Chamber or to make progress with the Government's legislative agenda in that House. I listened with great interest to the comments that were made by various Members. I hope they will forgive me if it is not possible to respond to all of the issues that were raised and the many constructive and helpful suggestions that were made.

I want to make a specific point about the programme for Government in general. It is a very serious programme. It was agreed over the course of some very serious discussions. It is designed in the public interest. We have a serious intent to implement all aspects of the programme. There is no question of selected aspects of it being implemented while other parts of it are ignored. The programme for Government provides for substantial reforms across a broad range of areas. I draw the attention of Senator Harris to the fact that it includes substantial public sector reform. It seems from the speech he made in the House today that he has missed the relevant part of the programme.

I listened with interest to what a number of Senators said about fiscal, financial and banking issues. Senator Regan summed it up extremely well. Solemn promises about tax issues were made by European leaders to the electorate of this State during the debate on the Lisbon treaty. They said that Irish tax issues would remain the internal concern of the Houses of the Oireachtas and that Europe would not impose a tax structure on this State. There is a general view across all parties that we must protect our position in the area of corporation tax. It is important that our partners in Europe recognise the fact that Ireland, as a small island off the European mainland, is a peripheral state in the context of the European Union. If we are to attract multinational companies, retain those that came here after being promised our corporation tax rate would remain at 12.5% and assist existing operations that wish to expand, it is

[Deputy Alan Shatter.]

crucial that we keep our faith with them and that Europe keeps its faith with us as we try to protect existing jobs and create new jobs in our economy.

Senator Harris is extraordinarily wrong about a number of issues. I listened to his eloquent speech and I do not mean to be unduly critical. The decibel level at which a speech is delivered often belies the nature of the content of that speech. I have a long memory of Senator Harris's political prophecies. I have a distinct memory of the lead-in to the 2007 general election, when he acted as a cheerleader for the return to government of the catastrophic Fianna Fáil-led Government that was then in place. Prior to its re-election in 2007, that Government had laid the foundation for the economic and banking catastrophe with which we are familiar. It proceeded to make catastrophic banking decisions from 2007 onwards, during Senator Harris's period in this House. This Government must now address the legacy of those decisions.

Senator Harris was quite incorrect when he said "the Becher's Brook this Government faces is not the banking crisis". I suggest the Becher's Brook this country is facing is indeed the banking crisis. Two and a half years after the outgoing Government took the steps that were allegedly supposed to resolve our banking difficulties, the extent of the seriousness of this crisis will become clearer when the stress tests of all the banks and financial institutions — this work is on the verge of completion — are finally published at the end of March. The outcome of those tests will pose a huge challenge to this Government. It will raise issues of substantial importance with regard to the future of this State and its economy.

I emphasise that how those issues are addressed will substantially impact on the capacity of this State to bring about prosperity in the future, tackle our jobs crisis and ensure we have the economic growth, and particularly the growth in our domestic economy, that was envisaged when the EU-IMF agreement was entered into. Those growth projections play a crucial part in meeting our debt obligations and tackling the major economic difficulties with which we are confronted. That truly is the Becher's Brook we must address.

I apologise for dwelling on Senator Harris's contribution but this is his final contribution in the Seanad. The Fine Gael Members in this Government will work with our partners in government, the Labour Party, to tackle in a united way all the issues, including those that must be addressed to produce a more efficient and cost-effective public sector which is affordable within the limitations of this State. I was curious about the comment he made in respect of the Fine Gael Party in some way flunking whatever it is he thought my party flunked. He made a reference to me as one of the architects of the programme for Government. The Senator seems to have ignored an arithmetical issue which all the other Senators clearly appreciate. The Fine Gael Party won 76 seats in the general election and the Labour Party won 37 seats. With 76 seats, the Fine Gael Party could not have formed a Government.

Senator Eoghan Harris: Of course it could.

Deputy Alan Shatter: It could not.

Senator Eoghan Harris: Fianna Fáil could not pull the plug. Fine Gael could govern as a minority Government and bring in the programme.

Deputy Alan Shatter: It could not have formed——

Senator Eoghan Harris: The Minister misquoted me all the way.

Deputy Alan Shatter: Perhaps the Senator would restrain himself.

Senator Eoghan Harris: The Minister was misquoting me all afternoon. I did not say the banks were the Becher's Brook. I tried to give him parole on that. I tried to stop raising the bar of expectations but, by God, if the Government keeps going over to Europe and coming back with nothing, the bar will be raised very high.

Acting Chairman (Senator Paul Bradford): Allow the Minister to continue without interruption.

Senator Eoghan Harris: I was merely saying the banks were not within his control. I was actually trying to help the Government.

Deputy Alan Shatter: The Senator clearly has a difficulty with people responding to him in a quiet tone. I merely pointed out to him that no party in the Dáil would have a majority with 76 seats. The electorate clearly determined, in its wisdom, that the new Government should be a coalition and as we face a jobs crisis of 440,000 unemployed, a crisis in our public finances and a banking crisis, all of which are the legacy of the party and the Taoiseach who appointed the Senator to this House, it is crucial this Government can operate with a sense of stability, that the general public have confidence in our ability to last five years and that we have the support of the overwhelming majority not only of Deputies but also those who voted in this country if we are to embark on the enormously difficult task of restoring some sense of economic independence while at the same time implementing what I believe to be the most dynamic and exciting reform programme of any Government elected during my time in the Dáil.

Senator Eoghan Harris: The Labour Party will not permit reform of the public service.

Acting Chairman (Senator Paul Bradford): Allow the Minister to conclude without interruption.

Deputy Alan Shatter: I will conclude, if I may, by again thanking the Senators who contributed. I have taken note of the issues raised to which I had not an opportunity to respond. Those Senators who are currently engaged in election campaigns I wish well and I thank those who are retiring when this Seanad concludes its term for their contributions to public life.

Senator Joe O'Toole: I thank the Minister for staying in the House for the entire debate. I ask him to take three points away with him for discussion in higher places. First, it would be worthwhile if every three months the Seanad carried out a similar assessment to that requested from other public bodies in regard to the progress made on the programme for Government. On the basis of what the Minister has said, I think he would welcome that. Second, legislation in areas such as geothermal energy and foreshore development will be crucial to the development of energy independence and renewable energy.

I have no axe to grind on my third point because it does not affect me but I have carefully read the proposals on pensions for Ministers and other Members. Under the current regime, somebody who came into politics at the age of 25 and spent 30 years as a Deputy or a Minister would be effectively unemployable. Under the programme for Government, that person would not be entitled to a pension until he or she turns 65. Such a situation will never affect me but it is wrong and it will keep people out of politics. Some of these decisions are being taken without sufficient thought. It is a small point which will never affect me and I make it for that reason. The people who are advising the Government need to think about this issue.

I thank the Minister for his attention during the course of this debate. I wish the programme for Government well. This was an important debate in terms of allowing us to raise issues. I presume we will continue to engage with the programme as it is implemented.

Question put and agreed to.

**Mental Health (Involuntary Procedures) (Amendment) Bill 2008: Committee Stage
(Resumed)**

SECTION 1

Question again proposed: "That section 1 be deleted."

An Cathaoirleach: I welcome the Minister of State at the Department of Health and Children, Deputy Kathleen Lynch, and congratulate her on her appointment and wish her well for the future.

Senators: Hear, hear.

Senator Dan Boyle: I move the amendment, as the sponsor of the Bill.

An Cathaoirleach: The Senator is opposing the section.

Senator Dan Boyle: I will explain my opposition to section 1. The Bill was originally envisaged as dealing with two involuntary procedures in the area of mental health, one of which is known as psycho-surgery or, more popularly, lobotomy. This practice has not been carried out in Ireland for several decades and to give more focus to the Bill its sponsors have decided to concentrate on the aspects dealing with electroconvulsive therapy. For this reason, we argue that section 1 is no longer required and our debate should be concentrated on the remainder of the Bill.

Senator Joe O'Toole: I welcome the Minister of State, Deputy Kathleen Lynch. I am delighted for her and wish her well in her new position. I know she will work to the best of her ability. I have full confidence that she will give her best judgment as she goes along.

I am pleased to be discussing this Bill. It is important that state exactly what we are talking about. Senator Boyle's proposal, with which I agree, is to eliminate section 58 of the Mental Health Act 2001. I would like to be completely clear that this is what he is proposing.

Senator Dan Boyle: It is not being deleted now, but yes.

An Cathaoirleach: The Senator is opposing the section.

Senator Joe O'Toole: Sorry——

An Cathaoirleach: If section 1 is deleted, the effect will be that section 58 of the Mental Health Act 2001 will be deleted.

Senator Joe O'Toole: Section 1 proposes to delete section 58 of the Act. That is what is being proposed. As there are some conflicting amendments, I want to be absolutely clear.

We have moved well beyond psycho-surgery, lobotomy and so on. There are many who are concerned about such procedures and this has a negative impact on the perception of mental health issues. We, therefore, need to be seen to take a clear and supportive line. I will be saying later on other sections of the Bill that people will be able to find various flaws and faults with the legislation, but no one can argue that what is contained in this legislation is not an advance on where we are. It may well be argued that there are other changes that should be made and that a major review should take place — I will support such a review — but these should happen after the Bill is passed.

The other House passed a motion this morning reinstating Bills that had fallen prior to the general election. If we pass this Bill today, it will form a basis on which to build change. The

Bill can be changed completely when it goes to the Dáil and when it is brought back here and can be improved with additional bells and whistles. As of now, however, it represents a move forward and takes us from a place in which we do not want to be. Therefore, we should support it.

Senator Niall Ó Brocháin: I agree with other speakers and will not repeat what they said. The Bill is important and I am glad it is being introduced by Senator Boyle. I congratulate the Minister of State on her appointment and welcome her to the House. I would like to hear her comments on the various issues raised. This is a particularly interesting Bill for the Seanad to deal with as it has received cross-party support. The Seanad is good at introducing such measures.

I personally believe electroconvulsive therapy is absolutely barbaric and that it is time we got rid of it completely. However, I accept the premise of the Bill, which is that at this stage we should abolish involuntary or forced administration of ECT specifically. This is a good Bill and I will join my colleague in opposing the section under discussion.

Senator David Norris: I have only just come back to the House, but I spoke on the previous Bill. It gives me great pleasure to welcome my old friend and colleague to the House as Minister of State. Long may she have the opportunity to come to this august Chamber.

This is an important Bill which was introduced by Senator Boyle and his former colleague Déirdre de Búrca. I have spoken with a number of people, several of whom I see in the House today, who take a particular view in this regard. There is a clear principle involved. The first question is that of the use of ECT on patients who do not give their consent. I feel passionately about this because I am old enough to have dealt with people within the gay community who were subjected to it.

Senator Dan Boyle: On a point of order, I wish to explain my confusion at the start of the debate. The list we were given by the Seanad Office indicated that amendments Nos. 1 to 3, inclusive, would be discussed together.

An Cathaoirleach: We are discussing section 1.

Senator David Norris: I see. I understand this is the section which deals with lobotomy.

An Cathaoirleach: The proposal is that section 1 be deleted from the Bill. That is what is in front of me.

Senator David Norris: In that case, I will reserve my position until we get to that point. I thank the Cathaoirleach for his guidance, as there was some slight confusion.

An Cathaoirleach: Does anyone else wish to speak to section 1?

Senator Eoghan Harris: I am not clear. Are we discussing the issue of ECT?

Senator Joe O'Toole: No.

An Cathaoirleach: We are discussing the deletion of section 1.

Senator Eoghan Harris: Is that the issue on which Senator Norris reserved his position?

Senator David Norris: Yes.

Senator Eoghan Harris: I thank the Cathaoirleach.

An Cathaoirleach: The proposal is to delete section 1. The effect is to delete section 58 of the Mental Health Act 2001.

Minister of State at the Department of Health and Children (Deputy Kathleen Lynch): I thank Senators for their kind words. Like Senator Boyle, I was under the impression that we would be discussing amendments Nos. 1 to 3, inclusive, together.

An Cathaoirleach: We will come to them in section 2.

Deputy Kathleen Lynch: I am in favour of amendment No. 1.

An Cathaoirleach: What I am looking for is agreement to delete section 1 from the Bill.

Question put and agreed to.

Section 1 deleted.

NEW SECTION

An Cathaoirleach: Amendments Nos. 1 to 3, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Phil Prendergast: I move amendment No. 1:

In page 3, before section 2, to insert the following new section:

“2.—Section 59 of the Mental Health Act 2001 is amended in subsection (1)(b) by the deletion of “or unwilling”.”.

It gives me great pleasure to welcome the Minister of State, Deputy Kathleen Lynch, to the House; it is a great honour to do so. I wish her well in her tenure as Minister of State and I am sure she will do well in her brief.

I welcome the opportunity to contribute to the debate. Section 59(1)(b) of the Mental Health Act 2001 allows for the administering of ECT in cases in which a person is either unwilling or unable to consent. I am cognisant of the human rights issues involved. In preparing for this debate I referred to many submissions made in this regard. In addition, I must declare an interest in that I have a close relative who works in the psychiatric services and has done so for over 30 years.

The statement made by the College of Psychiatry in Ireland contains a strong proposal that rather than deleting section 59(1)(b), we amend it to delete the words “or unwilling” in order that the other aspects of the provision will be retained in the legislation. Section 59(1) states a detained person can be given ECT with his or her written consent, or, if the person is unable or unwilling to give consent, if his or her consultant psychiatrist jointly approves, with a second opinion from another psychiatrist, a programme of ECT.

There are many diverse views on ECT and it is possible to hear arguments on each side. In my professional career I have met people who have benefited greatly from it and, therefore, consider it to be a positive option in a very limited number of cases. It is important for me to say I have seen the outcomes. I understand there are situations where people do not have full information, a person is perceived to have received the treatment without consent, or a person is not able to consent. There are diverse opinions in this regard.

The College of Psychiatry in Ireland also recommends enhanced oversight of ECT by the Mental Health Commission. It is of benefit for bodies such as the Mental Health Commission to be involved in procedural issues.

I welcome the opportunity to consider the issue of psychiatric services and treatments. There is controversy over measures that seem to help in some ways but about which negative effects have been reported. I realise this is a difficult subject, but I am delighted to speak about it today.

Senator David Norris: ECT is very much the nub of the matter and there are differing views on it. The College of Psychiatry in Ireland has made its views plain. As a matter of principle, forced medical treatment must be approached very carefully. I know there are particular cases, for example children whose parents are members of certain religious groups that do not permit blood transfusions. In those circumstances it seems to me to be absolutely clear that the courts have a right to intervene, but we are not dealing with that here. We are dealing with a situation that can be put within the broad context of the medicalisation of mental illness. That is something I feel very strongly about, as I believe do some of the people here who support this legislation which was introduced by the Green Party with my support on behalf of the Independents. I believe we understand this situation.

I have received extensive briefing documents but I shall not read them all into the record of the House. However, I would like to summarise them. With regard to the question of forcing this upon unwilling patients, I believe this is a very dangerous thing to do. As I indicated earlier, I am old enough to have dealt with people who were subjected to this treatment simply because of their sexual orientation, and it did enormous damage. I have had to cope with the wreckage of that system.

The previous amendment, about which there was some confusion, dealt with lobotomy in some way. That was a very dangerous thing and it showed the medical profession in a very poor light. Within my lifetime doctors were actually, in an uninformed way, removing sections of brain just to see what the result was. One of the classic cases of this was Rose Williams, the beloved sister of the playwright, Tennessee Williams. She was rendered into permanent infantilism by that operation. It was a tragic mistake that was consented to on her behalf by her parents because of an ignorant medical system in the United States at that point which thought that by brutal physical intervention, they could rectify the situation. Perhaps there would be a certain pacification, but they did not even address the real human problem underneath it. That is what is wrong, very often, with medicalisation. I have visited a facility in Cork and seen some of the results of this, and we need to be very careful when we introduce compulsory medication of any type, and certainly compulsory electroconvulsive therapy.

I was briefed at the introduction of the Bill by Senators Boyle and de Búrca by a man who has, sadly, since died, Dr. Michael Corr. He was passionate that this was wrong in virtually all circumstances. He produced a large body of evidence to this effect, which I read. I am not going to quote from it, as anybody who wants it can get it. To pass an electric shock through the brain tissue of a human being is a very blunt instrument, and no one actually knows how it works. They do not understand the neurochemistry or the neurophysics of it, nor can they guarantee it will be successful, and it damages memory. There is no doubt about that. It can have more serious complications, and no one who has witnessed it, as I have on video — never in person, I am glad to say — can have any view other than it has a very brutal impact on a human patient.

However, I have also been spoken to by people who have said, in effect that they did not want or welcome this, but it brought them out of a very dark place. These are the facts and I am sorry to disappoint any of those who have lobbied me, but I have to tell what I see as the

[Senator David Norris.]

truth. However, I understand that the situation can be addressed by reverting, simply, to common law. At the moment, two psychiatrists can decide that this treatment must be inflicted on a patient without his or her consent. They are protected in some reputational and legal sense from any recourse afterwards by the patient if the treatment is negative. My understanding is that this is already covered under common law. If this is the best practice or treatment, then that acts as a common law defence, so that what may be behind the briefings of my esteemed friends in the Royal College of Psychiatrists is protecting a patch. Perhaps I am wrong about this and in the event I apologise to them, as I do not mean to misconstrue the motivation. That seems to me to be the position, however, as borne out by quite a number of doctors who have said this to me. The chief psychiatrist responsible for mental health services in west Cork said that holding on to section 59(1)(b) was not really about medical practice, more about medical power. I do not believe that in 2011 this is, can or should be justifiable.

I am a layperson and if a doctor says this, I have to take that into the balance when I am speaking on this. Dr. Richard Lakeman of Dublin City University says: “Forcing or otherwise compelling people to receive an electric shock to the head is an anathema to the notion of personal recovery and an affront to all citizens who value personal autonomy and freedom.” The last quote I shall give is from Dr. Agnes Higgins, partly for the sake of gender balance, because it is important we respect the different understandings that sometimes women may have, or even those of us who develop the feminine side of the brain, as I like to believe that I have. She says:

I am aware that people are making the argument that to remove 59(1)(b) is to leave some patients vulnerable if they require it as a last resort. This is not the case, as doctors can still give ECT and resort to ‘duty to care’ argument and common law.

Perhaps the Minister of State will be able to tell the House whether that is the case. I would be concerned if it was not, because people can be nasty. In fact, patients can be nasty. Not all patients are grateful.

I remember being profoundly shocked at hearing of a woman in Miami on a cruise who developed a sudden onset of appendicitis that was leading towards peritonitis, which could very easily have been fatal. The captain appealed for a doctor and one came and operated on her with a penknife. He saved her life and she successfully sued him because the scar reached above her bikini line. I believe it was an appalling affront to decency to sue the person who had saved her life, but it shows that it can be done. I have always believed in equal treatment in trying to reach a proper understanding of situations. I believe in equal and fair treatment for patients, but I also believe that doctors who act honourably and decently should be protected.

My understanding is that the removal of this section still leaves open the possibility in an extraordinary situation when, for example, a patient is refusing food, not communicating or refusing liquids. That is a threat to the patient’s life and if in the opinion of the attending doctor there is a possibility that life may be saved by the administration of this very uncertain procedure, then, if it were someone we loved, would we not try every last resort? I believe that doctors are protected under law if they do this, but if my understanding is wrong, perhaps we shall have to look again. For that reason I strongly approve of the more radical approach to this situation.

Senator Eoghan Harris: I congratulate the Minister of State, first of all. I am very pleased to see she has finally achieved the office which she deserves.

Senator David Norris: Hear, hear.

Senator Eoghan Harris: I regret to have to rain on the parade of my liberal friends. To be in favour of ECT is like being for the devil or tsunamis, but nevertheless the truth is the truth. I was the first person to make a programme on mental health in Ireland that reached a mass audience and caused changes in public attitudes. To do that I was given resources by RTE which had never been given before. I did months of research and interviewed pretty much every psychiatrist in Ireland and in Britain. I interviewed people such as Spike Milligan, particularly on the question of ECT.

Of three things I discovered, the first was that the politics of psychiatry is simply that, politics. There are a series of political fashions in psychiatry that come and go. Members will recall the notion a few years ago that we return all the mental patients to the community, with the result that people could be found urinating in the National Gallery downtown because there was no one to take them in. The notion of the hospital as a sanctuary was repudiated.

Second, I discovered that most of the notions held by the liberal left on the matter of psychiatry came from a film, "One Flew Over The Cuckoo's Nest", a real fantasy of the 1960s which seemed to believe there was no such objective condition as chemically caused mental illness. A political row has been going on ever since between the so-called medical and psychological models, whereas in fact so little is known about mental health that the best which may be done most of the time is to be empirical, to determine what works and what does not. In that regard it is quite ridiculous to say that the doctors do not really know how ECT works.

Senator David Norris: They do not.

Senator Eoghan Harris: My point is that they do not have to and the empirical question is whether it works. It is quite all right if it works and it saves people's lives and wait for the Garret FitzGerald theory to come later. Most of humanity's progress has been through trial and error.

The third thing I learned is that most of the people who believe ECT is bad news on all counts have never spent long periods in psychiatric hospitals. Nor have they suffered from serious endogenous depression, as I have. Anyone who has suffered from serious endogenous depression will be very glad to avail of ECT. The entire motor system shuts down. It is good enough for Dr. Anthony Clare and for many of the eminent psychiatrists in Britain and Ireland. If all else fails and they cannot reach patients whose lives are at stake, ECT has worked. Spike Milligan told me that he did not like it and that it damaged his memory but that if there was a trade-off between his memory and his life, he knew where he stood. ECT is not a lucid and clear theory. All we know is that it works on critical and far gone patients. We should not take that weapon out of the armoury or weaken its public standing. On cost benefit analysis for the patient, there are not many times when a patient's only resort and last call is ECT. It is a weapon in the armoury of science and medicine and it should not be laid down until a better weapon is produced.

Senator Joe O'Toole: I have read much of the literature on ECT and I have seen the arguments for and against it. I do not make a value judgment on ECT. I support this matter for another reason, which concerns rights and how we make decisions. The item of legislation we are proposing to remove protects doctors and ignores patients.

Senator David Norris: Hear, hear.

Senator Joe O'Toole: I do not oppose the points made by Senator Harris. ECT has worked for some people and not for others. In the same way as a tooth extraction or chemotherapy, people make decisions on all areas and that is the issue that concerns me. This is the classic

[Senator Joe O'Toole.]

example of protecting the profession and ignoring the receptor. I am a professional in a different profession. We should not allow this to become a debate for or against ECT. There is nothing in what we are discussing that comes to a value judgment on ECT. We are simply opposing the idea that it can be performed on patients unwilling to receive it. The arguments I am making are not perfect arguments. On balance, this is the best option available to me today. If I were sitting where the Minister of State is, I could come up with a more perfect solution.

Senator David Norris: There are no degrees of perfection.

Senator Joe O'Toole: This is true. Allow me to restate.

An Cathaoirleach: No interruptions.

Senator David Norris: It is a theological point.

Senator Joe O'Toole: While this is an imperfect argument that we are putting forward, I could come up with the perfect result. I will explain it shortly. We must deal with the issue raised by Senator Harris when we reach a situation that the best thing for a person is a particular treatment and the person does not want it. That happens every week in hospitals. A doctor might ask a patient to take a course of treatment but the patient may decide that, knowing the risks and making a judgment, he or she does not want the treatment. There may also be people who do not have the capacity to make that judgment. That is where the perfection and imperfection of the argument come together.

The current protection is that one can get a second opinion. We are all real people in this Chamber. I would love to know how many times a second opinion was refused. I might ask the Senator to sign a document and he will do so. That is the way it is done. I do not see it as any protection. One is asking a colleague to second-guess another colleague, with no great gain in doing so. I do not think that happens. Where is the weakness or imperfection in my argument and what is wrong with what is being proposed in this legislation? The real reason is that it does not deal with the point touched on by my previous colleagues, coming at this from different ways. A treatment may be the best for the patient but the patient may not want it or may not have the capacity to make a proper judgment. We have not dealt with this because we do not have legislation.

Senator Norris talked about the duty of care and common law, which applies to everyone in any profession. I used to have to explain to teachers that one was guilty of negligence through omission as well as commission. Doing the wrong thing or not doing the right thing is equally balanced in the law. Somebody can err in either direction. Senators on these benches have proposed the following matter a number of times over in the past 20 years. Issues concerning guardianship, mental capacity and how decisions can be taken by those not in a position to take a decision must be discussed. That is how we perfect the issue so that we get away from the question of ECT. We should have a generalised view on how to deal with someone with a mental capacity issue and who is not in a position to make a decision. This does not only apply to ECT but to a variety of aspects of life. Governments are not keen to deal with this because it is awkward. Very conservative people, very liberal people and those of the *laissez-faire* view will come at it from every side on whether we should interfere. It is very difficult. A number of former colleagues dealt with this issue.

The duty of care and the common law was opened clearly on "Morning Ireland" by Mr. Hugh Kane, who was mentioned in some of our briefing documents. He made it clear that our proposal does not rule out the use of ECT, which is important in respect of the point made by

Senator Harris. If the duty of care overrides other issues or common law is the basis on which a decision is taken, it is arguable in court. However, it is not very attractive to professionals. Doctors prefer the existing legislation rather than what we propose. It leaves them swinging and they must make the arguments in favour of their professional decision. I would prefer the doctor who took a decision on the basis of common law or the duty of care to have to argue his or her position in defence of performing ECT in a court of law afterwards rather than the current situation where the patient does not have any right to argue for or against it. The patients must simply shuffle up and the procedure is carried out.

We should support the legislation before the House. At that point, the Bill will go to the other House and that is the opportunity for the Minister of State to polish the legislation. The arguments raised in this House can be dealt with. I support Senator Boyle's proposal because it is a clear and obvious improvement on the current situation although it is not a perfect solution. In that regard, we should support it and urge the Minister of State to take a wider review of mental health and capacity legislation and deal with the genuine arguments passionately put forward today.

Senator Maria Corrigan: I congratulate the Minister of State and I wish her well. She is highly regarded in the area of mental health for her efforts. Speaking from my own professional and personal experience I have seen the benefits ECT has had on patients. It is important to stress that one is talking about a small number of patients and that the treatment is always used as a last resort. In such situations things are dark and bleak and the patient might not be in a position to give consent. I heard the points made by colleagues and I listened with great interest to what Senator O'Toole said, that this should not be a debate about ECT, that it should be about whether someone who is unwilling to have ECT should have it. It is important that people who would benefit from ECT would not be prevented from having access to the treatment as it only ever used as an absolute last resort.

I have seen the situation at first hand. I have seen how people's lives were affected and the life that potentially lay ahead for them. I have also seen how people had an opportunity to enjoy life following treatment with ECT. Thankfully, it does not happen to many people but empirical evidence exists and clinical studies have been carried out to show that the treatment works. Senator Prendergast's amendment to delete the word "unwilling" is welcome. That will address the points made by Senator O'Toole. It is important when someone is unwilling to have ECT that his or her view is respected.

I was also struck by the comment Senator O'Toole made on second opinions. I am sure there was no intention to be disingenuous. Most people are professionals and I would hope that if someone were asked for a second opinion, his or her professional integrity would be such that he or she would give it without regard to the position taken by his or her colleague. While I cannot speak for psychiatrists, whenever I have been asked for a second opinion as a psychologist, I have always taken it seriously, regardless of who gave the first opinion, be it a colleague or someone working in another organisation. I have approached the issue with the utmost integrity and given my opinion independent of my colleague's opinion.

I welcome the press release and submissions made by the College of Psychiatry to the effect that its members would respect and support the decision of anyone who had the capacity to refuse the treatment. My concern is how we define and determine capacity. That area must be addressed as a matter of urgency. Apart from the arguments on ECT, mental capacity is an issue that has implications for basic decisions all of us take for granted, especially for those who suffer from mental health difficulties, adults with intellectual disability, adults with acquired brain injury and adults who acquire age related disorders. The issue affects people's human rights.

[Senator Maria Corrigan.]

From the constant lobbying I was in a position to undertake in recent years, I am aware that a Mental Capacity and Guardianship Bill has been completed. It has required an enormous amount of work as it has had to link in with much existing legislation. While I support Senator Prendergast's amendment, it is of the utmost urgency that the legislation would be accompanied by the Mental Capacity and Guardianship Bill. I urge the Minister of State to take that into account.

Senator Niall Ó Brocháin: I very much respect people's choice in these matters but it must be clear that it is their choice. I hope, if the Minister of State deals with the issue and brings the Bill to the other House, that the suggestions being made will be enacted. I hope she will take on board sufficient safeguards to ensure that ECT is clearly the choice of the patient and that he or she is in a fit state to make the choice, or if a relative or other person is making the decision that it is based on the previous known will of the patient.

ECT is interesting as a treatment in that it is not fully scientifically proven. It does have unusual effects from time to time. I wish to compare it to St. John's wort in particular. The Irish Medicines Board has examined St. John's wort, which is used for the treatment of mild depression, so the matter is linked in a certain way. St. John's wort is banned on the basis that its efficacy is not completely proven, yet people all over the world use it regularly. It is possible to buy it in Northern Ireland for use in the State. It is also possible for certain practitioners to prescribe it, but it is not possible for people to buy it and use it by choice.

To return to Senator Harris's argument, he referred to Garret FitzGerald's great quote about something working in practice but asking whether it works in theory. There is the famous argument that bumblebees should not be able to fly and that it is scientifically impossible for them to do so, yet the little blighters are flying around our heads all the time. It is important we would be consistent in the way we treat such issues. It is not acceptable that one treatment should be allowed because it suits certain vested interests but another treatment should not. Ultimately, it is about what is best for the patient. I accept that in certain cases if a patient wishes ECT to be used then it should be possible for that to happen. Likewise, the same should happen across the board. It is empirically proven that St. John's wort is of great benefit to many people who are depressed. It is a mild medicine derived from a plant one can grow in one's back garden. Certain people grow it and use the plant. It is not illegal. Certain Members who got elected to the other House have different plants growing in their back garden. This particular plant is not illegal for use but its sale is banned as a medicine in health food stores.

We should put the patient's welfare first. We should also take a consistent approach to treatments that could be of benefit to a patient if he or she wishes to use it and it is not proven to be harmful. I support the Bill in every way and commend Senator Boyle on bringing it forward.

Senator Fiona O'Malley: I, too, welcome the Minister of State, Deputy Kathleen Lynch, and wish her well in her new role. As a new Minister at the beginning of a new term I am sure she will take on board what has been said and what must be addressed in this area. I am sure that with her enthusiasm she will deal with it.

In a sense one would want the wisdom of Solomon to deal with the issue. This is a particularly difficult issue when one is not medically qualified to make a decision about it. I was struck by many contributions but Senator Corrigan's in particular. She inquired whether people who would benefit from ECT would no longer be able to receive it. In the light of comments made by Senator Harris in particular, it would be wrong if the treatment were not made available. Despite what speakers have said about how wrong or inhuman the treatment might be, Senator

Harris spoke powerfully about how it can help people. He stated that if one is desperate, the negative aspects are worth it. A close relative suffers from depression, but nothing like the kind in question. It is an awful and absolutely wretched illness. There are times when it is very hard to reach a person suffering from depression as he or she may not be interested in treatment.

I, too, heard the guy on the radio some days ago. It appears that if these amendments are accepted, ECT will continue to be available. It should not be taken out of reach of people who would benefit from it, as Senator Corrigan stated. Will the Minister of State clarify this?

Senator Maurice Cummins: I congratulate the Minister of State, Deputy Kathleen Lynch. Her down-to-earth and practical approach is and will be very important in her most important ministry. It will be welcomed by all.

I compliment the Green Party, particularly Senator Dan Boyle, on raising this issue because it needs to be discussed. We have had very valuable contributions from all contributors to the debate this evening. There has been much public debate on the administration of ECT. While some perceive ECT as a high-risk, low-benefit procedure, others regard it as effective and safe, and particularly useful in the treatment of severe, resistant depression.

Senators Bacik and Prendergast have suggested that the reference to “unwilling” in section 59(1) be deleted. While theirs is a good amendment and should certainly be supported, the problem relates to the definition of the word “unable”. The concern is that those who are not in a position to give informed consent may be denied what could be life-saving treatment. This relates to the point made by Senators Harris, O’Malley and Corrigan. A balance must be struck although this will be difficult. Irrespective of what happens, there will be differences of opinion. I welcome the Minister of State’s opinion on this subject and await her comments.

Senator Paul Bradford: I welcome the Minister of State, Deputy Kathleen Lynch, to the House.

Certainly and perhaps fortunately, I am not an expert on this matter. I have listened with interest to my colleagues. This is a very difficult issue on which to make a firm adjudication. It is absolutely impossible for most laypersons to determine the appropriate route to travel in regard to these amendments.

When I first saw the amendments presented by Senators Bacik and Prendergast, I believed they struck a reasonable balance and would address the issue in a fair fashion. However, having read further correspondence from those lobbying for a fundamental change, and who are supportive of the Bill produced by Senator Boyle, I must ask the Minister of State to clarify the definitions of “unable” and “unwilling”. I believed initially that deleting the word “unwilling” would solve most of the problem. Where does the word “unable” come into play? In what circumstances would medical personnel deem a patient unable to make an informed choice? From the layman’s perspective, it seems easy to determine whether one is willing to accept treatment. A person who breaks his leg is either willing or unwilling to have a pin inserted, and a person with pneumonia is either willing or unwilling to receive certain types of medication. However, where people with mental or psychiatric difficulties are concerned, we must ask whether they are fit to determine whether they should avail of a certain treatment. Who declares whether one is willing or unwilling? If a patient refuses to accept ECT, can a consultant or other medical personnel state that patient is unable to make that decision?

From what Senator Harris and others have said, I understand there is a weighty body of evidence suggesting ECT may be very appropriate in certain circumstances and, most important, that it does work. I am certainly not in a position to dismiss that type of medical analysis. The other side of the argument points to damage done through the use of ECT.

[Senator Paul Bradford.]

Medicine, be it general or psychiatric, has moved on tremendously in recent years. Although laypeople may have visions of a *One Flew Over the Cuckoo's Nest* approach to medicine and mental illness, I hope we have moved well beyond it.

In the Minister of State's response, to which I am sure we will be responding, will she try to draw a line in the sand regarding the definitions of "unable" and "unwilling"? This will allow me to think further about the amendments. The Bill represents our striving to find an appropriate solution, rather than an appropriate compromise. We are trying to produce the best possible legislation and the best possible treatment for people who suffer from mental illness. While drugs, counselling and therapy have improved dramatically, there could still be a requirement in some cases for ECT. We just need a proper framework for its provision. I am sorry for being so long-winded and for adding confusion to confusion. Will the Minister of State try to explain the core argument about the difference between "unwilling" and "unable"?

Senator David Norris: One must listen with the deepest respect to anybody of the eminence of Senator Harris, who can talk so movingly from direct experience of depression. I have never had depression, except in my old drinking days. It rarely lasted more than about 12 hours and I knew it would come to an end. Therefore, I cannot actually speak from experience. However, Senator Harris's experience does not provide a complete and adequate defence. He is a sufficiently chivalrous combatant to know that, and he is a contrarian. When he implies, "If it is good enough for Anthony Clare, it is good enough for me", the argument does not wash with me at all, because I am a grown-up. I do not accept at all the contention that the adults like it. Professor Clare could be right or wrong.

Senator Eoghan Harris: He was a psychiatrist.

Senator David Norris: That does not make him anything very special in my eyes.

Senator Eoghan Harris: I would rather go to him than to Senator Norris.

Senator David Norris: But he might have recovered much quicker had he——

An Cathaoirleach: We are on amendment No. 1 and must move on.

Senator David Norris: When Senator Harris says it does not really matter how ECT works, I, as somebody interested in the disciplines of science, feel it does. That is not an absolute, however, because I am well aware there are effective treatments whose manner of working is not fully understood.

If one is suffering and something works then one will do it and one would be mad not to, to be quite frank. However, our experience with things such as lobotomy are so grave that one must pause. Of course one recognises Spike Milligan, and may I say as a professional name-dropper that was not the best name drop. Senator Harris is a wonderful man but one must do it with skill. Perhaps he could have said, "The third time I spoke to Spike Milligan" or "When he wrote to me congratulating me on the programme".
6 o'clock
If I might presume to give Senator Harris some advice as a professional name-dropper, I do not think he has quite arrived at the most professional degree of name-dropping but I am sure he will be able to perfect his skill.

An Cathaoirleach: We are discussing amendment No. 1 to section 2.

Senator David Norris: With regard to amendment No. 1, this situation affects not only Ireland. The position with regard to human rights and ECT has been confronted at the United

Nations and the World Health Organization and both bodies have stated with regard to this specific treatment that it should be administered only with the free and informed consent of the people concerned. I take these bodies seriously; I do not always agree with them but they have to be added into the balance.

The right of a patient who has the capacity to refuse ECT has to be protected unequivocally under section 29 and at present the Act is clearly in breach of this. We have a commitment on this and we should support these important principles. It is very important that we live up to our international obligations. If we look at what we have done, we adopted most of the principles of the United Nations convention on the rights of persons with disabilities five years ago in December 2006. However, we have not ratified it and this concerns me. What we need is something that goes further than this and I ask the Minister of State to take this back to her colleagues in Cabinet. We need a comprehensive review of the entire Mental Health Act and its associated Acts so that we can come up to the standards to which we have agreed in principle, such as the UN convention on the rights of persons with disabilities. We have a further way to travel with regard to this. The administration of drugs on a long-term basis to people on an involuntary basis for a period in excess of three months is a direct analogy to the section we are examining and this also needs to be explored. We need to ventilate these issues.

On a very serious note — because there was a certain banter and I know Senator Harris and I both enjoy this type of thing — there is a stigma about mental illness which is completely inappropriate. Jonathan Swift was one of the first people in Europe to point out that mental illness is just that; it is not possession by devils, madness, badness, lunacy, imbecility or whatever else, it is illness. Nobody apologises for having arthritis; why should anybody apologise for having depression? They should express it, understand it and seek assistance. One would hope that as a community we would be prepared to give that assistance.

With the greatest respect to Senator Corrigan, we should examine and find out on approximately how many occasions when second opinions are called for is the second opinion substantially different to the first and what are the reasons for this. This would be helpful because perhaps it would set people's minds at ease. Perhaps someone could do an academic study on this.

Not surprisingly, Senator O'Toole referred to the need for real capacity legislation. This is a new Government with a new programme for Government. So often when in opposition, Members of the Labour Party and Fine Gael were passionate on behalf of rights-based legislation and capacity legislation. Now we are calling in the cards and asking to see the value of their money and whether they are really committed to this. Will they act consistently on principle? We know they are now in a practical world and that can be terribly difficult and there are constraints but I appeal to them in as far as possible to examine first of all ratifying the convention I specified and, second, examining the publication of even a draft capacity Bill. This would be extremely valuable.

I have just realised that three years ago in 2008 I was the third man to put my name to the Bill. Perhaps I should have said "third person" but I said "third man" because I like the film and its music. I am very proud, pleased and honoured that my colleagues in the Green Party allowed me to put my name to the Bill. The only thing I regret is that it is not tabled on the Order Paper for all Stages. That would have been helpful. Perhaps the acting leader can see whether it is possible.

Senator Dan Boyle: We can.

Senator David Norris: I would like to ask him whether it can be put through all Stages.

Senator Dan Boyle: Yes.

Senator David Norris: If so, perhaps we will get an indication that this can be done and then it will be left to the Dáil to decide whether it will progress it further. I hope it does so.

Senator Phil Prendergast: In tabling the amendment, we agree that when a patient who is competent to consent refuses consent that refusal should be accepted.

Senator Maurice Cummins: Yes.

Senator Phil Prendergast: There is no question about that and an issue is not raised. However, and this might address the concerns expressed, where a patient is genuinely unable to consent there is no reason for an absolute legal rule prohibiting any one form of medical treatment. Someone else must make a competent decision on behalf of a person or patient who is unable to consent. This is where Senator Boyle's Bill goes too far. Our amendment, which would replace the existing section 2, strikes the right balance. The Bill, as proposed to be amended, would leave in place the power of a competent person to consent to ECT thereby recognising its potential use as a practice in psychiatry but would preclude any person receiving it who was unable to consent. This is logical and the amendment avoids this anomaly.

Senator Dan Boyle: I am afraid it does not do so.

Senator Phil Prendergast: I believe it does.

Senator Dan Boyle: I will argue against it.

An Cathaoirleach: No interruptions.

Senator Phil Prendergast: With regard to a second signatory or where a second opinion is sought, it is never only two psychiatrists and a person in need of the procedure involved; it always involves a multidisciplinary team and involves discussion with the family, occupational therapists, general practitioners, public health nurses, psychiatric nurses and community psychiatric nurses. It does not involve just one person.

Senator Joe O'Toole: That is not correct.

Senator Phil Prendergast: It is in the most part and I speak with some degree of authority. I agree with Senator Corrigan that if a second opinion is sought, particularly with regard to something as important as ECT, that second opinion is a genuine second opinion and is not a signature or a rubber stamp that one psychiatrist concurs with the opinion of another. This does not happen. The person is genuinely assessed.

We will have an opportunity to introduce capacity legislation in the future and it will be necessary. We are very genuine and we will continue to be passionate in speaking for people who cannot best speak for themselves and for the advocacy groups which have the welfare of every person at heart. It is also in our best interests to ensure they are best served by any legislation. Legislation should not be prohibitive, it should be at the core of giving the very best service and treatment available. We speak about cloud computing and advances in science, medical science, psychiatry and forensic science. All of these are rapidly expanding and we must keep an open mind. There is also the placebo effect whereby something cannot be explained and we have only empirical evidence that shows us this is what works or appears to work for people.

In 2009, 90% of patients who received ECT were voluntary and consenting. A total of 35 patients who were assessed by psychiatrists as requiring ECT were considered to lack capacity or were unable to give consent and were treated under section 59(1)(b) but only with the agreement of both psychiatrists. As I stated, both psychiatrists would have assessed the patients. Irish research has shown that 93% of those people benefited and for a number of people the treatment was life-saving. This is a very emotive and contentious issue. The spirit of this legislation is meant to enhance and be of benefit to those people who require ECT. I thank the Minister of State for her attention.

Senator Joe O'Toole: I wish to add to my earlier contribution. With all due respect to Senator Prendergast, whom I know is very committed, she undermined her own argument. It may well be the case that relatives and other people should be consulted but in her contribution she made it quite clear that she was only referring to two consultants. In 2007, my former colleague, Dr. Mary Henry, and I put forward a piece of legislation entitled, the Mental Capacity and Guardianship Bill. I refer to section 4 of that Act:

(a) no intervention is to take place unless it is necessary having regard to the needs and individual circumstances of the person including whether the person is likely to increase or regain capacity;

(b) any intervention must be the method of achieving the purpose of the intervention which is least restrictive of the person's freedom;

In reference to a person who does not have the capacity, the section states:

(c) account must be taken of the person's past and present wishes where they are ascertainable;

If it were the case that what Senator Prendergast said at the beginning of her contribution was correct I would have a slightly different view. The section further states:

(d) account must be taken of the views of the person's relatives, primary carer, the person with whom he or she resides, any person named as someone who should be consulted [such as consultants] and any other person with an interest in the welfare of the person or the proposed decision where these views have been made known to the person responsible;

(e) due regard shall be given to the need to respect the right of the person to dignity, bodily integrity, privacy and autonomy

Those are the sections of the piece of legislation that deal with the points that I believe Senator Prendergast also wishes to deal with but this is not in the legislation before us. There is no requirement to consult with any of those people. I want such a requirement and I am supporting the legislation from the Green Party on the basis that it is the best available at the moment. I said at the beginning it is not perfect but it could be made perfect by dealing with capacity and guardianship along the lines I have just outlined and there is a lot more in the legislation introduced by former Senator Mary Henry and me at that time in order to deal properly and in a balanced way with these issues. Governments do not want to know. I appeal to the Minister of State that support for this legislation is only a first step. I would like to see the 2005 review which was referred to by Senator Norris and to deal with the issue of capacity which protects everybody, the consultant, the patient, the family, the friends. It is multidisciplinary in that regard. This is what is required of the capacity and guardianship elements and they are not in the Bill as it stands.

[Senator Joe O'Toole.]

The current choice is just two consultants who can ride roughshod — I do not say they would do so but that is the way the legislation is written — over the views of the person. Consultants tell people everyday that smoking is bad for their health and they should not smoke but people continue smoking and with the full capacity to do so. There is a lot to be said for saying we should not allow them to do so but I am not suggesting this argument for a moment. My point is that the current legislation is flawed and the legislation being proposed is not perfect but it is better. In that regard I appeal to Members to support it. I appeal to the Minister of State to take it that step further. Every one of the issues raised by Senators Corrigan, Prendergast, Harris and Bradford can be dealt with by a combination of a review and mental capacity and guardianship legislation.

Deputy Kathleen Lynch: I thank all Members for their good wishes and for welcoming me to the Seanad. I am not certain it is the way I would have chosen for my first visit but one must deal with the hand one has been dealt, as with everything in life. I appreciate the words of welcome. I hope that when I have finished saying the little I have to say we will realise we are not that far apart in what we all want. I hope we can come to an accommodation because the new Government intends to deal with all the issues referred to in this debate. The programme for Government as published deals with every issue raised today. I hope we can reach an arrangement whereby I can have a little more time to deal comprehensively with the issues which need to be dealt with.

In reply to Senator Norris's contribution, of a total of 44 patients sent for a second opinion, two psychiatrists disagreed with the referring consultant's opinion. It should be noted that very decent and honourable people work in the field of mental health. Because we know so little about it ourselves and because we have such a fear of becoming mentally unwell we are mistrustful and unsure of that area. This is our failing as opposed to theirs.

I have listened with much interest to the points raised in this debate and I have to admit that I have some reservations about the administration of electroconvulsive therapy, particularly in the absence of patient consent. My officials inform me that ECT is a recognised treatment for severe mental illness and is sometimes used to treat persons with severe depression who do not respond to drug treatment. In reply to Senator Bradford, I refer to people who do not interact with others, who neither sleep nor eat nor make eye contact and who are virtually catatonic, who are what the profession means by being "unable". However, I am also aware that ECT has many critics from within and without the medical profession and there is some evidence to suggest that memory loss can be a side effect. One does not need to be told by the medical profession to know there is a difference of opinion. The views expressed today show the range of opinion, from the extreme to the accepting to the in-between and this is the difficulty posed by this issue.

It is obvious that ECT is a controversial treatment and I will need some time to fully understand both sides of this very emotive debate. I want to examine the reputed benefits and reputed limitations of the treatment before I make any legislative changes. I also need time to consider if it would be feasible to simply delete the provisions relating to ECT in the Mental Health Act 2001 and allow common law to prevail. I ask the House to give me that time. My difficulty and concern is that doctors might choose not to provide the treatment under common law because they could fear being sued. If one is concerned about the medical profession protecting itself then this is an issue to be considered and about which one must take a sensible view.

I wish to make it clear that the legislation will be changed. The Government for national recovery is committed to a review of the 2001 Act which will be informed by human rights

standards. In that regard I can assure all present that the promotion of the human rights of service-users will be the principle underpinning any and all mental health legislative developments in the future. For my part I believe that a patient should have the right to refuse ECT. Our laws should not allow two consultant psychiatrists to override the expressed wishes of a patient and force an unwilling person to undergo this treatment. I accept that the clinicians have the patient's best interests at heart and may consider the treatment to be life-saving. We all know of such cases. However, if a patient who has the necessary capacity to make the decision, has been given all the information about the procedure and opts to refuse treatment, it is incumbent on us to ensure that this decision is respected. I therefore readily accept that the word "unwilling" should be deleted from section 59 (1)(b) of the Mental Health Act 2001 and in that regard I am happy to support the amendment proposed by Senators Prendergast and Bacik. In the context of the administration of medicine, I am of the view that the word "unwilling" should also be deleted from section 60(b). However, I am conscious that there are patients who lack capacity and are not in position to make such an informed decision. I agree with the point about the lack of capacity legislation, which is not just about people with mental illness. It is about the elderly, people with intellectual disability and those who might not be fully informed about what the issues are. Only today I was discussing introducing capacity legislation with officials. While it is only a personal opinion that I have had for a number of years, I believe it should not be mental capacity but legal capacity and we should start to change our use of language.

I note from the activity report published by the Mental Health Commission last month that in 2009 some 35 programmes of ECT were administered to patients who were deemed by consultant psychiatrists to be unable to consent to the treatment. Should such patients have been denied treatment on the basis that they were not able to give their consent? I believe Senator Harris's contribution in this regard was well worth listening to. I also note from the report that in total, 373 programmes of ECT were administered in 2009 and in almost 88% of cases the ECT was terminated when improvement was indicated. Should patients who are unable to consent be denied that prospect of improvement?

I confess I do not have the answers to my questions and I need time to explore the issue. I do not want to rush to judgment on this; I want and need to look at the evidence base, listen to stakeholders and consult with my officials. It is important that we are now having a free and open debate in 2011 about the stakeholders. A number of years ago we would not have talked to stakeholders but would have talked to members of the profession. There are others who need to be consulted.

Over the coming weeks and months, I will meet relevant people and groups who, I hope, will give me a better and fuller understanding of my brief. In this regard I will meet service user representatives. We are fortunate to have a highly developed service user movement in mental health. I will meet representatives of the National Service User Executive and listen carefully to what they have to say on ECT. I will also of course meet representatives of the College of Psychiatry of Ireland. I will ask the college to reassure me about the efficacy and safety of ECT, and provide the evidence to convince me that ECT should continue to have a place in a modern psychiatric service.

I am aware that the previous Administration had proposed legislative changes and heads of a mental health Bill were at an advanced stage of preparation. While I will of course examine those proposals, I will make up my own mind on this issue. I am not simply a Minister of State who will carry on the baton. I will assess the situation for myself and ensure that we are heading in the right direction where human rights are paramount before I make my own proposals for legislative change.

[Deputy Kathleen Lynch.]

As I am sure Senators are aware, the Government is committed to the introduction of a new mental capacity Bill. This new legislation will offer the possibility of assisted or substitute decision making, which may help solve the dilemma on the administration of ECT to persons who lack capacity. I will give this matter much consideration. I have a personal opinion and I will be informed by people who consider themselves to be greater experts than I am. There are very few people who lack capacity if the right supports are put in place. If one takes on board how people behaved in the past, what their environment was and how they communicate, I believe there are very few people who lack capacity and with the right supports we can give them that capacity.

I thank the House for raising this important issue and in particular I thank Senator Boyle of the Green Party. It is a vital issue that needed to be ventilated. I am not certain that I appreciate it being done in the first week after my appointment as Minister of State, but these are the things that happen. I have listened closely to the comments made here this afternoon and have taken note of the very genuine concerns expressed which I believe are motivated by the desire to do right by those with mental illness. I also share Senators' concerns for people with mental illness and their comments will go a long way towards helping me understand the issues and will undoubtedly inform my deliberations.

I am sorry that I cannot be more definitive on the proposed Bill at this stage. While I can assure the House that legislative changes will be made, I cannot give any guarantees as to the extent of those changes. I want to do what is right and what is best for our vulnerable patients because they deserve no less. I will not rush to judgment, but will instead take a measured and informed approach. Any decision I make will be evidence-based and taken against the backdrop of the need to protect human rights. In this context I ask the Senators for their support. I hope that between us and with people who have a genuine interest and who speak for those who have no voice, we can come up with a body of legislation that will ensure that the nightmare scenes we saw before will not be repeated.

Senator Dan Boyle: I thank all the Members for their detailed contributions. This is not a Bill about prohibiting ECT, which will continue in existence regardless of what the House decides today. In making any decision this House will be keeping a particular aspect of the debate alive as it relates to the involuntary use of the treatment for people who have not given informed consent. That will only mark the halfway stage in a constitutional process that needs to be visited in the other House. We are asking the House for a statement of concern on the need to address the issue. The Minister of State has given her response. In my original contribution, I forgot to welcome her as I had already done so in a personal sense. We have soldiered long and hard together over the past 20 years. I know the disagreement we may be having — narrow as it is — is based on her now being in government and me not.

Even though the Minister of State is only a week in office, her response is a standard Government response — the Government always seeks the right to move legislation.

Senator Joe O'Toole: As the Senator well knows.

Senator Dan Boyle: I have seen it in practice and I do not believe it works in theory. As one of the last acts of the 23rd Seanad, we have the opportunity to make a clear statement that the other House needs to address a particular aspect of mental health reform, which is the only effect of passing this legislation. Nothing will change about the use of ECT or even its involuntary use, but importantly the debate will be progressed. I believe the Minister of State mentioned 383 treatments — I had understood the figure to be 588. However, that related to 43 people.

The amendment proposed by Senators Prendergast and Bacik will be ineffective because it will change nothing. The distinction between “unable” and “unwilling” is just as loose as the ability of two consultants to sign forms because the ability to be considered unable rather than unwilling can be brought about through pharmaceutical circumstances. While we need to address the issue in a more comprehensive way, in the first instance we also need to say there are human rights issues regarding people who are given this treatment without their consent. Of the 43 people affected in 2009, some 80% were already listed as unable through the Mental Health Commission. However, the outgoing chief executive of the Mental Health Commission has said this is appropriate and should help to advance and inform the wider legislative change we need to make in this area. When the people who are responsible for mental health policy and its implementation, and the collation of data in that regard, are saying this Bill is the way forward, I ask Members to agree with that way of thinking.

Senator Harris made a very moving contribution and if the debate was about the prohibition of ECT, I would disagree with him on many matters. I particularly liked his use of the oversimplification of the film *One Flew Over the Cuckoo's Nest*, which I found especially ironic given that the person who wrote the book on which the film is based was well known for having his cerebral make up affected by the constant use of LSD. He was hardly summoned to inform this debate. I have informed myself, as have those involved in sponsoring this Bill, including my former colleague Déirdre de Búrca who is also a psychologist. The essence of this debate is that professionals differ greatly on the effectiveness and efficacy of the treatment. Senator Harris mentioned Dr. Anthony Clare, who is well respected——

An Cathaoirleach: As the business of the House was ordered to conclude at 6.30 p.m. I ask you to report progress.

Senator Dan Boyle: The debate started ten minutes late. Can I ask that it be extended for 15 minutes?

An Cathaoirleach: No. My hands are tied. The time for the conclusion of the debate is 6.30 p.m.

Senator Dan Boyle: Can I move that the debate be extended by 15 minutes and explain why?

An Cathaoirleach: No. The debate must conclude at 6.30 p.m.

Senator Dan Boyle: Our substantive debate is on amendments Nos. 1, 2 and 3. There is a fourth amendment that as a sponsor of the Bill I am not going to oppose. Everyone has spoken at great length today. I have had an opportunity, as the person who moved the Bill, to speak. I am asking that the House sit for an extra 15 minutes to allow this to happen.

An Cathaoirleach: The business is ordered and agreed to conclude at 6.30 p.m. I ask the Senator in possession to report progress on the Bill.

Senator Dan Boyle: Can I ask that the debate be adjourned until tomorrow?

An Cathaoirleach: I have no control over what business is ordered for another day. I will ask the Leader to state when the House will sit again. That is all I can do

Senator Dan Boyle: Can I table a motion that extra time be given and that Members be given the right to consider it?

An Cathaoirleach: No. My hands are tied with a 6.30 p.m. conclusion. That is what was ordered and agreed today.

Senator Dan Boyle: I will report progress and ask that the debate resumed tomorrow.

Progress reported; Committee to sit again.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 10.30 a.m. tomorrow.

The Seanad adjourned at 6.35 p.m. until 10.30 a.m. on Thursday, 24 March 2011.