



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TU AIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Déardaoín, 16 Meitheamh 2011.

[illegible]

SEANAD ÉIREANN

Déardaoin, 16 Meitheamh 2011.
Thursday, 16 June 2011.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Business of Seanad

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

The need for the Minister for the Environment, Community and Local Government to respond favourably to a recent request from Cork County Council to change the Valuation Acts in order to allow local authorities some discretion, on a cost neutral basis, to reduce rates on certain small businesses.

I have also received notice from Senator Kathryn Reilly of the following matter:

The need for the Minister for the Environment, Community and Local Government to discuss his intentions regarding the ratification of the Aarhus Convention.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

The need for the Minister for Transport to outline his plans regarding the tolling of motorways and to address reports that low levels of road usage are resulting in penalties being incurred by the State and whether the future tolling of new projects has now been brought into question.

I have also received notice from Senator Averil Power of the following matter:

The need for the Tánaiste and Minister for Foreign Affairs and Trade to report on the steps being taken by the Government and the EU Foreign Affairs Council to assert the human rights of medics currently on trial in Bahrain simply for administering medicine to protestors, and to ensure that this urgent issue is discussed by EU Foreign Ministers at their Council meeting next week.

I have also received notice from Senator Susan O’Keeffe of the following matter:

The need for the Minister for Health to restore the mammogram service to Sligo General Hospital so that anyone requiring a mammogram does not have to travel to Galway to have the mammogram, often at great cost and inconvenience.

[An Cathaoirleach.]

I regard the matters raised by Senators Bradford, Reilly, Ó Clochartaigh and Power as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret I have had to rule out of order the matter raised by Senator O’Keeffe as it was replied to in a similar motion last week.

Order of Business

Senator Maurice Cummins: The Order of Business is: No. 1, motion regarding speaking time on Private Members’ business, to be taken without debate; Nos. 2 to 6, motions concerning the establishment of committees and certain amendments to Standing Orders relating to the procedure within those committees, as set out in the Order Paper, to be taken without debate; No. 7, statements on the fair deal nursing home support scheme, to be taken on the conclusion of No. 6 and to conclude not later than 1.30 p.m., with the contribution of spokespersons not to exceed ten minutes and the contribution of all other Senators not to exceed six minutes, and the Minister to be called on to reply not later than 1.20 p.m.; and No. 8, the Finance (No.2) Bill 2011(Certified Money Bill) [Dáil] — Committee and Remaining Stages, to be taken at 2.30 p.m. and to conclude not later than 5 p.m. There will be a sos from 1.30 p.m. to 2.30 p.m.

Senator Darragh O’Brien: Today we have reached the 100th day of the new Government. I do not want to dwell too long on that as it is not necessarily appropriate to fill out a report card on a Government after 100 days, but the incoming Government made a big issue of the first 100 days. It is, therefore, important to note that with regard to the EU-IMF programme in particular, the rate cut remains outstanding. I would like to hear from the Leader the up-to-date situation with regard to the negotiations with the troika on the rate cut, which we learned last week will only apply to moneys not drawn down, rather than the total fund. Therefore, instead of the savings of €440 million per annum the Government stated would be achieved, the savings are now reduced to €160 million per annum and the Minister for Finance has said we should not overplay the importance of the rate cut. I agree with him. I said that prior to the election, but the problem is the Government had made firm promises in this regard and said the deal was practically done. I will not rehash the old rhetoric of the Opposition parties at the time, but the failure to achieve the rate cut is a disappointment. There is also disappointment with regard to the U-turn on third level fees, the universal social charge and issues such as not signing the enabling works for metro north, the largest infrastructural project due to get under way this year, at the cost of 260 jobs. The list goes on and on.

I will be positive in one regard. I read this morning and an announcement was made yesterday about the review of the Croke Park deal. This deal met with much derision from Members of all parties when it was done, including my party. However, it is good that the independent review has said that solid progress has been made. I welcome the fact there has already been a saving of over €250 million on salaries, but it is important that there is progress on public sector reform and not just on the monetary aspects of the agreement. It would be more than helpful if the Minister with responsibility for that reform, Deputy Howlin, could come to the House to discuss the issues when he has his full powers. As Deputy Byrne mentioned yesterday, the Bill to establish his Department has not yet been passed. That aside, it would be worthwhile for him to give the House an opportunity to discuss the progress of the Croke Park agreement. Credit is due to the public sector on the progress made, which shows that when people put their minds to it and work together on an agreed basis, savings can be made. It is important this House regularly reviews the issue on foot of the report.

On the announcement made yesterday by the HSE with regard to changes to the operation of a number of hospitals, a number of colleagues on this side of the House, including Senators

Leyden and MacSharry, have raised concerns about Roscommon County Hospital and Sligo General Hospital and the reintroduction of cancer services. I note with interest that Senator O’Keeffe put forward a matter for the Adjournment on that issue today. Many colleagues in both Houses said they would resign after 100 days if cancer services were not reinstated in Sligo General Hospital. Roscommon County Hospital, Navan General Hospital, Louth County Hospital, Portlaoise hospital, Ennis hospital, St. John’s Hospital in Limerick, Mallow General Hospital and Bantry hospital all face having their services curtailed. This is a cause for concern.

The Minister for Health will make an announcement to the media tomorrow, Friday, but he will not make an announcement to the Dáil or Seanad with regard to how he will deal with this situation, although many Members have raised their concerns. It was a prevalent practice in previous Governments — something that needs to stop — for important announcements like this to be made to the media. These announcements should be made in the Oireachtas and not to journalists at press conferences.

Senator Fidelma Healy Eames: The Senator should look at the example set by the previous Government.

Senator Darragh O’Brien: If the Senator was listening, she would have heard me mention previous Governments. It is wrong to do it now and it was wrong for previous Governments to do it.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Darragh O’Brien: It is a pity the Minister, Deputy Reilly, sees it fit to make these announcements to the media rather than to the elected Members of the Oireachtas. In fairness, the Minister has come to this House to deal with agreed legislation but I would like him to discuss, in the House rather than in the media, cuts in hospital services in Sligo General Hospital and others I mentioned.

Every time we hear of another shooting or murder happening anywhere in Ireland it saddens me to raise it in this House. Very sadly, another individual was murdered yesterday in Santry in yet another violent crime. The Minister for Justice and Equality, Deputy Alan Shatter, has been in the House on a number of occasions, which I welcome. It is important that the Minister should come to the House. This type of murder or shooting is more than prevalent and its occurrence has increased in recent weeks. The Garda is doing its best but I wish to hear if the Minister and the Department of Justice and Equality believe further legislation is required to tackle this scourge.

I offer my sincere sympathies and those of the Fianna Fáil group to the family of the person who lost his life last night.

Senator Ivana Bacik: All of us join Senator O’Brien in expressing sympathy in regard to that latest appalling shooting. Last night there was a debate in this House on the Criminal Justice (Amendment) Act 2009 with the Minister for Justice and Equality, and Members aired their concerns about the effectiveness of current legislative measures. The Minister helpfully indicated that he would conduct a review of the organised crime provisions in the Act, which I welcome as it is very important.

I refer to the announcement today that the Government plans to impose losses on senior bondholders in Anglo Irish Bank and Irish Nationwide Building Society, which we all very much welcome. Given that the anniversary of the first hundred days is being marked, we must note that this important issue needs to be addressed, as does that of interest rate cuts. I point out to Senator O’Brien that nothing has been finalised in that regard. It is a matter of great

[Senator Ivana Bacik.]

regret to all of us that more progress has not been made in achieving an interest rate cut but we hope negotiations are ongoing.

Today we will debate the Finance (No. 2) Bill which will bring about the jobs initiative and funding thereof, which is probably the most important achievement of the first 100 days.

I also welcome the announcement that the Government will respond today to the Council of Europe with an action plan on how it proposes to deal with the ABC case and its implications. As others did, I ask for a debate on this issue. It might be appropriate to have such a debate when the expert group, planned by the Government, has reported although I would be happy to have a debate before then to inform the work of the expert group. That debate may or may not happen but we will certainly need a debate when the expert group has reported. I very much hope that group will have a tight timeframe within which to prepare a report on the implications of the ABC case. For far too long this Legislature, the Oireachtas, has failed to grasp the nettle of the abortion issue and it is time we did so. The expert group is an important part of the strategy but we also need debates in the Seanad, preferably early ones, with others to follow when the expert group has reported.

Will the Leader arrange a debate on a case that has slipped somewhat under the radar? This case was taken by an Irish lawyer, Mr. Ciarán Toland, who on 7 June won a victory in the Court of the European Union, that is the general court, not the European Court of Human Rights. He sought access to a report known as the Galvin report, on the operation of the parliamentary assistants' allowance in the European Parliament. This report was widely leaked on the Internet in 2009 but has been withheld by the Parliament. Mr. Toland achieved a victory, with the court stating that the Parliament could not objectively justify withholding the report. This is an important judgment that will have far-reaching consequences for improving accountability and transparency in the rights of EU citizens to access reports of European institutions. We might well consider the report in this House, especially given the debate we had yesterday on the usefulness of this House in dealing with EU matters. A final point of note is that a former Senator, Eugene Regan, represented Mr. Toland in the EU court.

Senator Eamonn Coghlan: There has been much debate in recent years on the new national children's hospital to be located on the site of the Mater Hospital. Most people welcome the construction here of a new national children's hospital but I have been greatly involved with the volunteer sector that has raised funds for Our Lady's Children's Hospital in Crumlin for the past 20 years. In my new role in the Seanad I have been in contact with a good number of concerned parents with regard to the state of play and the present position of the hospital plan.

Our Lady's Children's Hospital in Crumlin was designed in 1936 and eventually built 20 years later. For Tallaght Hospital, the time from conception to build was 18 years. If we go by this trend it may be another 14 to 16 years before the new national children's hospital is built. The last Government chose the Mater site but I understand it will cost approximately €600 million to construct the hospital, with €200 million having to come from philanthropic gestures and fundraising. So far, approximately €30 million of taxpayers' money has been raised. Planning permission has not been applied for and final decisions have not been agreed. At present more than €100 million is being spent in the Crumlin hospital. I understand that in the very near future, the Minister for Health, Deputy Reilly, is to open a brand new intensive care unit in the hospital. This makes no sense to me, to the volunteers or the very concerned parents.

What are the intentions of this Government with regard to the new national children's hospital? We need not debate the site because that argument has taken place but I wish to draw to the Minister's attention the need for the House to learn the state of play regarding the building of the facility. One hopes it will not take 14 or 16 years.

Senator David Norris: My colleagues raised the anniversary of the first 100 days of this Government, as is appropriate in this Parliament. However, that anniversary will come only once. I refer to another that always comes round, namely, Bloomsday. I say this in a serious way although with a good and happy heart.

Bloomsday has become a universal celebration of humane values which pleases me very much. Forty years ago, when I started off on the project I was a lonely figure on the streets of Dublin, performing in an almost magical way sections of that great novel in the very places in which they happened. I am very glad to report that early this morning, the Minister, Deputy Jimmy Deenihan, opened Bloomsday at the James Joyce Centre at 35 North Great Georges Street, a house that would not be there but for the genius of James Joyce because we were able to use it in that capacity.

I already complimented the Taoiseach, Deputy Kenny, on his choice of representatives to Seanad Éireann. He also made a good choice in the Minister for Arts, Heritage and the Gaeltacht, Deputy Deenihan, whom I know, not only as a sportsman but as a man who has celebrated forgotten playwrights such as George Fitzmaurice and great people such as John. B. Keane, the Listowel Writers Festival and all such other matters.

It is a matter of great pleasure to me that the Impac literary prize was given to a great Irish writer, Colum McCann, for his wonderful novel, *Let the Great World Spin*, which deals with a tightrope walker on a rope stretched between the twin towers in New York. It cements the great relationship between Ireland and the United States of America. I am very proud that the MEP, Mr. Gay Mitchell, when an elected representative in Dublin, invited me, Ms Deirdre Ellis-King and Mr. Seán Donlon, a former ambassador and member of the Department of Foreign Affairs, to design that prize. We started——

Senator Mary M. White: He was Secretary General.

Senator David Norris: I thank Senator White and stand corrected. It was a very useful group of people. That is the single, greatest value, literary prize in the world for a single work of fiction.

There will be many Bloomsday celebrations, thanks to the work of people such as Mr. Ken Monaghan, Joyce's nephew — sadly, this is the first year he will not be with us — Joyce's grand-nephew, Mr. Robert Joyce, and the rest of our committee. Bloomsday now lasts a full week which brings in tourists. I am glad to tell the House they have supported us so well that we have bucked the trend. Our figures are up and we are in the black. The James Joyce Centre survives and is thriving. I am grateful for the support of various Governments.

There will be many readings. I will be doing some in St. Stephen's Green and then moving to Terminal 2 at Dublin Airport. Dublin has been recognised as a UNESCO city of literature, but what a boring name for a terminal at an airport: Terminal 2. Can we not do better? I ask for the support of this House, as I secured the support of the Minister for Arts, Heritage and the Gaeltacht this morning. I will be asking the Minister for Transport, Tourism and Sport later for his support for the renaming of Terminal 2 as James Joyce International Airport, Dublin.

Senator Fidelma Healy Eames: I support Senator David Norris in his call for the renaming of Terminal 2 as James Joyce International Airport. It would be an appropriate recognition of Dublin's status as a UNESCO city of literature.

I wish to raise a serious matter, on which I seek the support of the House. What does the country need to do to grow out of recession? The answer is jobs, export-led business and thriving indigenous companies which allow for sustainable growth. Before me I have the case of a high-tech Galway company which is ready to create eight new jobs, but its request for

[Senator Fidelma Healy Eames.]

finance has been rejected by the State-owned banks. The company is offering €4.5 million of new business from Britain, with which it can create these jobs, but AIB which is almost 100% nationalised has rejected its request for credit which is needed to buy equipment to deliver on the project. This must be a source of concern for the entire House. We own the banks and this is unpatriotic behaviour on their part. They are rejecting viable companies' requests for finance. When I asked why the offer had been rejected, I was told a slow "No" was the bank's answer, with the company being fobbed off. I ask the Leader to call for the intervention of the Taoiseach. The Minister for Finance is doing a fine job for us abroad in trying to take care of the extraordinary debt burden we are facing. At home, however, we must create jobs and support viable businesses. I, therefore, ask the House for its support to ensure there is movement on this issue. I will pass on the specific details to the Leader and ask him to intervene in this case. That AIB and Bank of Ireland are refusing to offer credit is nothing short of national sabotage.

Senator Thomas Byrne: The 100 days concept is much used by the Taoiseach and we are marking it today as a result of the remarkable actions of President Franklin D. Roosevelt at the height of the Great Depression. After he assumed power, on the second day he closed the banks for four days and within 100 days he had passed 15 Bills through Congress, which is still a record. Comparing the last 100 days or even the three pages of promises the Taoiseach made to be delivered on in the first 100 days of his Government with the period of 100 days mentioned, they do not measure up well. The Finance (No. 2) Bill is important, as a focus on job creation is necessary, but the Bill will only be passed today if the Government does not continue to insist that approved retirement funds be excluded from the scope of the pension levy. The likes of the bankers who have brought the country to its knees are still excluded from harsh taxation measures that will affect ordinary people. I, therefore, propose an amendment that No. 8, Finance (No. 2) Bill, be deleted from the Order of Business today owing to the failure of the Minister for Finance to bring approved retirement funds within the scope of the pensions levy in the Bill. This is such a crucial issue that we must obtain the views of the House on the matter, but it is not possible for us to secure this by amendment.

The Leader is proposing to bring the debate on the Bill to a conclusion today which I believe is outside Standing Orders. That is totally unfair. In the last Dáil both Fine Gael and the Labour Party criticised this practice time and again. As I understand this does not happen too often in the Seanad, we do not have much of a precedent for the guillotining of debates on important legislation. In general, I am not in favour of the use of the guillotine, as we do not always have enough time. I repeat the criticism I made yesterday that if we are to do the work of the people by scrutinising the laws we are passing, we cannot just let them go through on the hoof, while omitting issues such as approved retirement funds while targeting middle income earners. We should talk about the Bills in front of us, not just about other important issues that come into our heads that can be discussed on the Order of Business, the Adjournment or during other debates.

I thank the Leader for arranging the debate on the nursing home care support scheme in the House today.

Senator Rónán Mullen: In the light of reports that the Government proposal involves the linkage of judges' pay with that of Oireachtas Members and other public servants, the concern I raised yesterday on judges' pay was related to the history of inappropriate encroachment on judicial independence. If the only permitted reduction in judges' pay was in the context of other public servants, including Oireachtas Members, specifically members of the Executive,

facing similar cuts, it would have a chilling effect on any attempted interference with judicial independence.

Senator Ivana Bacik referred to the decision of the European Court of Human Rights in the ABC case. I add my voice to say that, whether there is an expert group, this is an issue that must be referred back to the people. The context is that Ireland has more to teach its European partners than it has to learn on the issue of abortion because we have honoured human rights in the true sense by protecting the life of the unborn, while also having the lowest maternal mortality rate in the world. It remains the case that we are not in any way required to legislate to give effect to the flawed Supreme Court decision of 1992; we need only remember that there was no proper medical evidence heard in that case and we can point to the increasing awareness of the possible psychiatric and psychological downsides of abortion. This is something that is increasingly adverted to in the literature. Ireland has a lot to say on the issue and if we have an expert group, the issue must be referred back to be considered by the elected representatives of the people. I mentioned yesterday the excellent work done by the late Brian Lenihan and the committee of which he was a member prior to the 2002 abortion referendum and it remains Ireland's position to determine its precise law on abortion. We cannot claim to be advocates of human rights, unless we protect life at all stages, and that means protecting life from conception, guaranteeing the best medical care to women during pregnancy, ensuring they do not feel they have no alternative but to have an abortion, and providing all the social supports necessary in order that they do not choose to have an abortion. That will be the test of our concern for human dignity and human rights.

Senator Martin Conway: I refer to the Brosnan report on the Clare-Limerick boundary. I am heartened by media reports locally that the Minister will leave the communities of Shannon Banks and Westbury within County Clare. As the Leader appreciates, county boundaries are sacrosanct in Ireland. Families are proud of their county names, as we see in Croke Park on the first and third Sundays in September. The people of Shannon Banks and Westbury are proud Clare people and the notion of moving the Limerick border to capture their communities was a source of great distress for people throughout County Clare. The economic arguments offered did not stand up.

The whole concept of moving a city boundary to take in communities who for generations have played hurling and football for County Clare was completely inappropriate. I am delighted that in the first 100 days of Government, the Minister for the Environment, Community and Local Government has indicated that he will make a decision, which is imminent, and if media speculation and reports in County Clare are anything to go by, the decision will be the correct decision. Will the Leader ascertain when the Minister's announcement will be made and his thinking in regard to the section of the campus of the University of Limerick that is in County Clare? We need clarity. The previous Government created upset and distress in this area. I am glad we are being told through the media that a decision is imminent and I would like to know when the decision will be made.

Senator David Cullinane: Has the Committee on Procedure and Privileges met to discuss the proposals which my party put to the Leader and to the CPP recently on speaking rights? May I ask the Leader if a decision has been made and if he will inform the House of the outcome of the meeting?

An Cathaoirleach: For the information of the House, Senator Cullinane wrote to me and I replied to him.

Senator David Cullinane: I did not receive a reply.

An Cathaoirleach: It is in the post, as they say.

Senator David Cullinane: I will check the post. May I raise an issue that has been in the public domain for the past number of days——

Senator Paul Coghlan: It will arrive, I am sure

Senator Colm Burke: It might not be good news, though.

Senator David Cullinane: I had a conversation with the Leader of the House before this meeting and I was asked to raise it here. I look forward to a response from the Leader of the House.

I wish to raise the issue of the State potentially having to bail out the credit unions to the tune of €500 million. There are reports that household debt is at 190%. The country faces significant problems with the financial institutions. I put it to the Minister of State at the Department of Finance when we discussed the Finance Bill that we needed to burn the senior bondholders in Anglo Irish Bank and I welcome the fact that some move has been made, but many of us see that as too little, too late. There is the potential of a second financial tsunami heading towards this country if we do not take corrective action on the banks, credit unions and personal debt. The reason credit unions may need to be bailed out is because many people are defaulting on loans because their take home pay has been reduced as a result of the measures that have been put in place in recent budgets. This goes to show that policies such as pay cuts and other charges do not work. The Legislature has been accused of being asleep at the wheel when the financial tsunami struck. Let us not be accused of being asleep at the wheel if a second financial tsunami is heading towards us. It is very important that the Minister for Finance would come to the House to debate this with Members. It is also important that we scrutinise, question and probe to ensure we make the best decisions in the interests of the State. That is the question I put to the Leader. It is very important we do not repeat the mistakes of the past and sleepwalk into a second disaster.

I wish to raise the potential shortage of junior hospital doctors and its impact on local and regional hospitals, including the hospitals in County Waterford. There is a very real risk that some accident and emergency departments and hospital theatres will close because of a serious shortage of junior hospital doctors. I ask that the Minister for Health come to the Seanad to discuss the plethora of health issues that have been raised continually in the Chamber.

I wish to raise questions on the independent report on JLCs. On Tuesday, I asked the Leader to indicate when that will happen but his response was that no decision had been made by Cabinet. I hope that does not mean we will debate the issue when decisions have been made. It is important that Members of the Seanad have an opportunity to discuss the matter before the Cabinet——

An Cathaoirleach: Has the Senator a question for the Leader?

Senator David Cullinane: Again, I am asking the Leader of the House to confirm that discussion will take place before the Cabinet makes its decisions.

An Cathaoirleach: The Senator is out of time. I call Senator Bradford

Senator Paul Bradford: In the previous Seanad we had a number of rolling debates on the Croke Park agreement. They were very useful as they allowed us to debate the various options. We must acknowledge that our former colleague, the then Senator Joe O'Toole, was a strong advocate of the Croke Park agreement. When we articulated our doubts, he assured us the

agreement could work and would be helpful in redressing some of the economic difficulties. I welcome yesterday's announcements on the moneys saved. However, one has to pose the awkward and difficult question that if we had taken such an approach five or six years ago, how much of the public finances would we have saved, leaving us in a better position today? We need to revert to a debate on the broad issues of the Croke Park agreement and public sector in general. I think the new Department, which the Minister, Deputy Brendan Howlin leads is not yet up and running, but once the legislation establishing it has been passed, it would be helpful if the Minister could come to the Seanad.

The second item I wish to raise is the ABC case, which was raised by Senators Bacik and Mullen. During the election campaign, I was questioned on my position on the matter and the commitment I gave on that occasion is that I advocated the setting up of an all party committee to examine and act upon the situation. I appreciate that an expert group has a role to play in advising and assisting us but, at the end of the day, the issue must be led politically rather than by so-called experts. We all know that one will get an expert to tell one what one wants to hear. I think we need to reflect on the fact that an all-party Oireachtas committee is the best vehicle to make the final decisions. Of course, we will be willing to take on board the advice of an expert group or experts or people from all strata of society. Let us not decide that this issue should be adjudicated on by anyone expect politicians. We are supposed to be the leaders and we must take leadership decisions on this matter.

Senator Labhrás Ó Murchú: Last night we had an interesting and informative debate on how the Seanad could be made more effective and more relevant to the general needs of the people, especially in the changing circumstances we are experiencing. It was a well-informed debate, drawing from the expertise and vision of many contributors. It was interesting that so many were offering to participate in the debate that it has been rolled over to another date. I do not know how other Members feel, but I think the public is oblivious to what happened here last night. That is sad. I put it to the Leader that one of the reasons this is happening is that the Private Members' motion is the last business on a Wednesday night when most news stories are already put to bed. My experience is that debates on a Wednesday night are generally topical and relevant. In many ways the issues are debated in an enthusiastic manner. Perhaps the Committee on Procedure and Privileges might consider changing the time of the Private Members' motion to a time in the early morning in order that there would be a possibility of the issues raised getting out into the public domain. We owe that to the public. Otherwise what will happen is that the media will continue to say the Seanad is not focused. We were very focused last night but it is not the fault of Members if the public is not aware of that.

With the permission of the Cathaoirleach, I would like to revisit the urgent situation of the 49 medical staff who are held captive in Bahrain. It look as if the trials of the 49 medical staff will be held very soon. There is a grave danger that executions might result in this case. Ireland is an honest broker in the eyes of the world and people generally listen to the views that come from the country. I hope the Leader will be able to inform me on the updated position in Bahrain. I would like to reiterate a point I made here the other morning. We have a particularly potent and powerful conduit with Bahrain through the Royal College of Surgeons. The college has agreed particularly lucrative contracts with that regime to provide courses and qualifications. Perhaps I might mention, to make it relevant to Ireland, that three of those who are missing at the moment studied in Ireland. To my knowledge, only one surgeon — there may be more — has come out publicly on this issue. Given that we passed a comprehensive all-party motion, I would like to think we can act on this urgently. I have probably exceeded my time, so I thank the Cathaoirleach for his indulgence.

Senator Paul Coghlan: I would like to compliment Senator Norris on this day. No one has done more to further the promotion and celebration of Bloomsday. The more it increases as a tourist attraction, the better it will be for all of us and for the economy. I agree with Senator Norris's remarks, particularly with regard to the Taoiseach's nomination of Deputy Deenihan as Minister for Arts, Heritage and the Gaeltacht. He is a most deserving and appropriate person to be appointed to that position, especially as he comes from the literary capital of the Kingdom.

Senator Catherine Noone: Up the Kingdom.

Senator Paul Coghlan: The Minister, Deputy Deenihan, has done a great deal over the years to promote the works of Keane, MacMahon, Fitzmaurice and others. I agree with what Senator Norris said about the Minister, who is doing great work. The Senator mentioned some of what is being done. I do not think there is a busier Minister in this Government.

Senator Diarmuid Wilson: What about the Minister for Finance, Deputy Noonan?

Senator Paul Coghlan: The Minister, Deputy Deenihan, is out there actively every day. I am sure they all are. We should single out Deputy Deenihan on this day in particular.

Senator Fiach Mac Conghail: I echo what Senator Norris said about Bloomsday. I join him in congratulating Colum McCann on winning an international literary award. It would be great if the Leader or the Cathaoirleach were to send a note of congratulations to Mr. McCann. As I am new here, I do not know what the procedure is in that regard. The award in question attracts the largest prize money of any award for a novel. The novel in question, *Let the Great World Spin*, is an extraordinary book. It would be great if the Cathaoirleach or the Leader of the House were to send a note of congratulations to Mr. McCann on behalf of us all.

Senators: Hear, hear.

Senator Susan O'Keeffe: I ask the Leader to invite the Minister, Deputy Deenihan, to demand that *Ulysses* be rewritten to ensure Leopold Bloom visits Dublin Airport on Bloomsday. I commend Senator Norris on his suggestion that Terminal 2 be renamed "James Joyce terminal".

On a more serious note, I would like to express my disappointment at the constant absence of the mammogram service from Sligo General Hospital. I repeat my request for the Minister for Health to come to the Seanad to discuss the configuration of hospital services in the north east, with specific reference to Sligo General Hospital. I have raised this issue in the House previously. It appears that certain services are not being provided.

Senator Thomas Byrne: Promises have been broken.

Senator Susan O'Keeffe: There is deepening concern in Sligo, as there is in Roscommon, about what that might mean for the future of these hospitals. It needs to be treated as a matter of urgency.

Senator Feargal Quinn: Over 1,100 people will participate in the World Transplant Games, which begin in Gothenburg in Sweden tomorrow. Some 33 Irish recipients of body organ transplants will be involved in the games. I am sure we all wish them every success. I mention the games because almost three years ago, this House considered the Human Body Organs and Human Tissue Bill 2008, the objective of which was to provide for presumed consent. A number of other countries, particularly Spain which has almost twice the rate of transplants as Ireland,

have legislated for presumed consent. I accept that the higher rate in Spain cannot be entirely attributed to presumed consent. Presumed consent means that when somebody dies, it is presumed that his or her body organs can be used for transplant purposes, unless he or she objected to it or carried a card saying he or she did not want it to happen.

When the Bill I mentioned was strongly debated in this House, the then Minister for Health and Children said she wanted the matter to be considered on a national basis. We have not heard a word about it since. I understand that when a debate on a Bill is adjourned in this House, the Bill falls when the Government changes. I would like the Leader to find out whether any action will be taken in this regard. Should we reinstate the Bill, in the hope that the new Minister will actually give us a response, so that it can be debated in the House once more? I believe there is a strong case to be made for presumed consent. It is understandable that there should be a debate about it. I would welcome an opportunity to have such a debate and, if necessary, to reintroduce the Bill. If the present Minister for Health intends to do something about it, we will not need to start all over again. We adjourned the Second Stage debate on the Bill with three minutes to go. It would be worthwhile to reintroduce it if the Minister deems it worthy of consideration.

Senator Terry Leyden: I second Senator Byrne's proposal on the Order of Business. I concur with the request made by the Leader of the Opposition in this House, Senator Darragh O'Brien, for a debate on health issues in the House next week. Will the Leader of the House consider the inclusion of such a debate on the agenda? The Minister for Health should come here to discuss developments in the health service. I refer in particular to proposals that have been made by the Health Information and Quality Authority and other bodies. It is hard to know exactly who is running the health service. Although the board of the HSE has been terminated in a dramatic way, the HSE itself is still in existence. Who is running the health service in this country? Different statements are being made at different times. It has been proposed that the 24 hours a day, seven days a week provision of accident and emergency services at Roscommon County Hospital should be discontinued. Nobody has confirmed that or decided to confirm it. If the hospital in Roscommon loses such services, it will be in grave danger. The existence of an accident and emergency unit provides a stream of work to a hospital. The unit is the hospital's shop front, in a sense. People come through such units. If a hospital loses that service at the weekend, it will lose some patients.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Terry Leyden: I ask him sincerely to put this matter on the agenda. He should ensure that the Minister, Deputy Reilly, comes to the House to outline his exact policies in this regard.

Senator Darragh O'Brien: Hear, hear.

Senator Terry Leyden: I congratulate the new Government on surviving for 100 days. We will be in this House for another 1,725 days.

Senator Fidelma Healy Eames: Wow.

Senator Terry Leyden: It is a question of "for whom the bell tolls". This is significant. I look forward with great relish to the future of this House. It will last another 1,725 days, at least. I congratulate the Government on its first 100 days.

An Cathaoirleach: That is not relevant to the Order of Business.

Senator Terry Leyden: It is significant. The next 1,725 days will be very significant.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Terry Leyden: I have. When will the Government pursue policies that are different from those outlined in the national recovery plan, which will run from 2010 to 2014? It is very hard to be in opposition at the moment.

Senator Catherine Noone: The Senator will get used to it.

Senator Terry Leyden: The Government has stolen all of our plans and policies. The worst thing is that all of the aspirations the Government parties put before the Irish people have been made null and void. I now have to look at the Government's policies——

An Cathaoirleach: How is this relevant?

Senator Terry Leyden: It is relevant.

Senator Ivana Bacik: The Senator is delusional.

Senator Terry Leyden: The people swallowed it hook, line and sinker when they voted for Fine Gael and the Labour Party in such abundance. They are being given the same policies that were pursued by the last Government.

Senator Ivana Bacik: Senator Leyden's party wrecked the economy.

Senator Terry Leyden: It is a hoax. It is a fraud. It is the greatest fraud ever perpetrated on the Irish people.

Senator Fidelma Healy Eames: That is life through Fianna Fáil eyes.

Senator Terry Leyden: Delightfully so.

Senator Kathryn Reilly: I would like to support the amendment to the Order of Business. I ask the Leader to invite the Minister for Education and Skills to come to the House to discuss his plans for third level student grants and the delays suffered by students across the State. The Minister has said that although the existing 66 awarding bodies will continue to process grants in 2011 and 2012, a single unified scheme will be introduced this year to replace the four existing schemes. The Minister should come to the House to give us the details of the new single scheme.

The application forms for the student grants are not yet available. In February this year, there were more than 2,000 students who had not received the first instalment of their grant which should have been paid in September last. Up to 50 students a week had to drop out of their college courses because they could no longer afford to study. Local authorities and VECs were overwhelmed. They were under enormous strain trying to process the grants and late payments. This was all when the forms were available on time. Currently, the forms are not available. Given the considerable volume of applications and the significantly reduced and overburdened staff in these VECs and local authorities who are processing these grants, any delay in issuing the application forms is disastrous and will have a knock-on effect on education, college drop-out rates and, ultimately, youth unemployment rates. The Minister cannot afford to be laid back on this issue. He needs to come to this House to address why the application forms have not yet been issued and to tell us the details of the new single grant scheme. I would ask the Leader to facilitate this.

Senator Denis Landy: I want to raise an issue relating to telecommunications on the road network and ask the Minister for Communications, Energy and Natural Resources to address it. A number of people have contacted me in recent months, and I have been contacted by a number of gardaí in my own area, who must stop on the new motorways because the telephone signal is lost, particularly on the Limerick-Dublin route and the Waterford-Dublin route, where for ten miles there is no signal. People are aware of this now and they are stopping before they lose the signal because they are in the middle of business calls, etc. It is incumbent on both the providers of the telephone networks and the NRA to address this issue. I hope the Minister might call on them to do so in order that we can have proper telephone signals on all routes so that those using their time when travelling to do business can transact that business without interruption. It is becoming a major issue. The reason the gardaí contacted me is that they have come across many people who are pulling up their cars before entering such blackspots so that they can finish out their business calls when, in fact, they are breaking the law by pulling up on motorways. People who are not aware of this are in breach of the law of the motorway where one cannot pull in unless one's car has broken down. I would the Minister to address this matter through the network providers and also through the NRA.

In response to Senator Leyden, I am delighted that after 100 days he landed what would register not as a blow in a boxing ring, but maybe as a slight tip on the side of the head.

An Cathaoirleach: That is not relevant to the Order of Business.

Senator Terry Leyden: I thank Senator Landy.

Senator Mary M. White: The majority of my colleagues here in the Chamber would not be aware of the 71,000 hidden child carers who are looking after alcohol dependent parents. This is the fifth National Carer's Week. It is estimated there are 71,000 children who have a reverse role in that they are looking after their parents. They are actually being the parents of the alcohol-addicted parents. They must feed their siblings, send them to school and see that they are adequately clothed. It is a national disgrace, and such a neglect, that these children are forgotten about and hidden because the families are ashamed to talk about the prevalence of alcohol in their families.

Alcohol Action Ireland has called for five significant steps that the Government could take to improve the situation, and I am highlighting one. I want the Minister for Health to come in and talk to us about it. It is to introduce a minimum price for alcohol, a floor price below which alcohol cannot be sold. Everyone here will be aware that the availability of alcohol in supermarkets and off-licences has been reduced, but we have a long way to go. Regularly, when I go shopping I cannot believe the price of a bottle of wine because all I think of is the consequences of its cheapness and what will happen when it is being consumed. I want to hear the Minister for Health on what he intends to do. We need a national debate on the price of alcohol.

When I produced my policy document, "What We Can Do About Suicide in the New Ireland", I pointed out that one of the effective ways of preventing suicide was to reduce alcohol consumption. Half those who die from suicide have alcohol in their systems. I call for an urgent debate with the Minister for Health on this national issue of alcohol abuse, suicide and the suffering from alcohol abuse in the country. I hope we can talk about it next week.

Senator Michael Mullins: It would be appropriate on this the 100th day since the formation of the new Government to congratulate and applaud them for the efforts that they have made. This Government, in 100 days, has done an enormous job of work in trying to repair——

Senator Darragh O'Brien: Like what? What have they done?

Senator Michael Mullins: —the image of this country, both at home and, particularly, abroad. The people of Ireland recognise this. Recent opinion polls show that support for the Government has increased in recent months because people approve of the actions that had to be taken.

Senator Darragh O'Brien: The Senator should wait until after the budget and talk to us in January next.

An Cathaoirleach: Senator Mullins without interruption.

Senator Michael Mullins: Everybody knows the mess that this country was left in by the outgoing Government. I was amused this morning by Senator Leyden, a man who I have known for a long time.

Senator Ivana Bacik: Senator Mullins will continue to be amused.

(Interruptions).

Senator Michael Mullins: I felt he was almost making a pitch for the next Seanad election.

Senator Terry Leyden: Why not?

Senator Michael Mullins: I support my colleague, Senator Healy Eames, in her call for the Leader to ask the Minister for Finance to ensure that the banks begin to free up credit for business. The company in Galway to which she referred is capable of creating eight jobs in the short term — certainly a significant number in a small community — and the banks are not playing ball. Given the amount of money that has been pumped into the banks, we need to put pressure on them to ensure that they start to free up finance for small businesses.

Speaking of small businesses, there is an issue that I would ask the Leader to bring to the attention of the Minister for Finance. I have concerns that the Revenue Commissioners are being a little heavy-handed with small businesses which are a little slow, because of the downturn in the economy, in meeting their obligations. I want to ensure that every small business is given every opportunity to stay afloat. We cannot afford to lose any more small businesses in this country and I want to ensure that the Minister for Finance is aware of this fact.

An Cathaoirleach: We are taking the Finance (No. 2) Bill today and I am sure that is a matter Senator Mullins can raise on it.

Senator Trevor Ó Clochartaigh: Ach oiread le Seanadóirí eile, ba mhaith liom tréaslú le Colum McCann as an duais iontach a ghnóthaigh sé. Is maith an onóir é agus go n-éireoidh leis. Sílim go bhfuil sé tráthúil mar go raibh mé chun ceist a ardú maidir leis an ábhar seo, mar in aimsir géarchéime, is minic go ndéantar dearmad ar chúrsaí ealaíona. Ó bheith ag caint le daoine a bhíonn ag plé le cúrsaí ealaíona agus mar dhuine a thagann ó ardchathair na healaíona, Gaillimh, tuigim tábhacht na healaíona, ní amháin ó thaobh na heacnamaíochta de, rud atá iontach tábhachtach, ach ó thaobh meanma daoine agus misneach daoine in am nuair atá rudaí go dona. Ba mhaith liom iarradh ar an gCeannaire an tAire, Deputy Deenihan, a thabhairt isteach sa Teach le buille beag a thabhairt ar a dhroim dó le comhghairdeas a dhéanamh leis as a cheapachán, ach chomh maith le sin, le díospóireacht leathan a bheith againn maidir le tábhacht na n-ealaíon sula dtiocfaimid i dtreo an bhuiséid don bhliain seo. Tá sé fíor tábhachtach nach ndéanfar dearmad ar thábhacht na n-ealaíon ar mhaithe le íomhá na tíre agus ar mhaithe le cúrsaí eacnamaíochta. I am calling on the Minister to come into the House for a

debate on the arts. It is extremely important that we do not forget the importance of the arts, especially in times of economic constraint. The arts can provide a massive injection to the economy and can also give us great respect abroad, etc.

The other issue I want to raise is cursaí iascaireachta. D'ardaigh mé an cheist seo cheana leis an gCeannaire agus dúirt sé gur aontaigh sé liom go raibh sé tábhachtach go mbeadh díospóireacht againn faoi chúrsaí iascaireachta. Ag am a bhfuil sé soiléir go bhfuil an stoc trosc ag ardú, buíochas le Dia, sa mhuir, rud nach raibh súil leis, tá sé in am athbhreithniú a dhéanamh ar an cuóta agus an méid den chuóta atá cead ag iascairí na hÉireann a thógáil ón stoc trosc. Chomh maith le sin, teastaíonn díospóireacht maidir le coireanna coirpigh a dhéanamh de iascairí a dhéanann faillí beag ó thaobh chúrsaí riaracháin de. Chomh maith le sin, ba mhaith liom plé a bheith againn ar an chéibh domhainmhara i Ros an Mhíl agus an fhorbairt atá i gceist i gcóir dugaí na Gaillimhe. I ask the Leader of the House to bring the Minister with responsibility for the marine into the House to discuss the fishing industry. We are seeing a positive increase in the cod stocks indices, but the quotas of fishermen have not been changed to reflect this. I raise the issue of the decriminalisation of the fishing penalties imposed on fishermen who make administrative errors in their paperwork when bringing in fish. I call on the Minister to give an update on the situation in the deepwater harbour of Ros a' Mhíl and the plans for the development of Galway docks. Bheinn an-bhuíoch dá bhféadfadh an Ceannaire a insint dúinn cén uair a bheidh an díospóireacht sin ag tarlú, mar is díospóireacht fíor-tábhachtach ar fad í.

Senator Maurice Cummins: The Leader of the Opposition referred to the 100 day milestone, a matter mentioned and discussed by a number of Members today. I am glad that Senator Terry Leyden has noted that the first 100 days have passed and that he recognises the Government will go the full length without doubt.

Senator Mary M. White: Not if we have anything to do with it.

Senator Maurice Cummins: I am pleased to note his confidence in the Government.

Senator Terry Leyden: With a 60 seat majority, the Government parties could afford to lose half their number of seats.

Senator Maurice Cummins: I assure Senator Darragh O'Brien the Government is engaged in ongoing negotiations on the interest rate reductions which it will continue in a balanced way. Senator Ivana Bacik referred to the burning of the bondholders.

Senator Darragh O'Brien also referred to the Croke Park deal, on which significant progress has taken place, on which I compliment everyone concerned. As the Fianna Fáil slogan put it some years ago, there is a lot done and more to do.

Senator Terry Leyden: There is also a better way.

Senator Maurice Cummins: A lot more remains to be done in that regard.

Senator Thomas Byrne: Fine Gael has broken its contract this time.

Senator Maurice Cummins: We held a debate in the House last night on law and order and a resolution concerning the Criminal Justice (Amendment) Act 2009. The Minister is strong on law and order. He moved a resolution dealing with section 8 which was renewed last night. He has also given a firm commitment that if further legislation is necessary to combat this appalling crime, he will address the matter. For now there is sufficient legislation in place to deal with the problems posed. I join Senator Darragh O'Brien and others in expressing sympathy to the family of the person killed.

[Senator Maurice Cummins.]

Senators Ivana Bacik, Rónán Mullen and Paul Bradford referred to the implications of the ABC case and raised the question of abortion. The expert group dealing with the matter will report and I assure the House we will hold debate on the subject when it does.

Senator Ivana Bacik mentioned Mr. Toland. The Minister of State with responsibility for European affairs will be in the House next week to discuss European affairs.

Senator Paul Coghlan referred to the proposed national children's hospital. The Minister is reviewing the matter and a review committee has been set up to consider the Mater hospital site. The Government is totally committed to the building of a national children's hospital which will commence long before the term of the Government is completed.

Senator David Norris has long been the champion in the House of Bloomsday. Bloomsday would not be celebrated were it not for Joyce, but the Senator has been flying the flag for it in the House and throughout the country for many years.

Senator Terry Leyden: He will do well out of it.

Senator Maurice Cummins: He is flying high. We will also examine the question of Terminal 2.

Senator Fidelma Healy Eames raised the important issue of job creation and the serious problem of banks not lending to companies. There is a credit review mechanism in place for the banks. I suggest the company in question take up the matter in that context.

Senator Fidelma Healy Eames: The mechanism is too slow.

Senator Maurice Cummins: If we can raise the matter with the Minister in question, we will do so because there should be the minimum of red tape to ensure job protection. If the banks are not co-operating, something must be done about the matter.

I do not accept the amendment proposed by Senator Thomas Byrne. We have no intention of delaying the jobs initiative as enunciated in the finance Bill. I am satisfied sufficient time has been allocated today for Committee Stage. If not, I can come back into the Chamber at a later stage and extend it, if possible. I allowed three hours for the debate yesterday, but by 5 p.m. there were no further speakers. Luckily, the Minister of State took a half an hour to finish. The record shows that the debate lasted until 5.30 p.m., but we ran out of speakers at 5 p.m. Therefore, I will take no lectures on the allocation of time.

Senator Thomas Byrne: I spoke yesterday.

Senator Maurice Cummins: Certainly, we will consider whether there is a need to allocate further time on Committee Stage today.

Senator Thomas Byrne: What about Report Stage?

Senator Maurice Cummins: We will consider that matter at the appropriate time. I remind the Senator that we provided three hours to accommodate the requests made to discuss finance issues but Members did not avail of the time allocated.

Senator Thomas Byrne: It is a matter for the Government to provide speakers to speak on the relevance of the Bill.

Senator Maurice Cummins: Several requests were made from the other side on the House. I am simply suggesting those who made requests did not speak.

Senator Darragh O'Brien: On a point of order, I have no wish to allow this to degenerate into a row, but this side of the House provided more than adequate speakers. I spoke, as did Senator Thomas Byrne and several others.

An Cathaoirleach: That is not a point of order.

Senator Darragh O'Brien: It is up to the Government to provide speakers also.

An Cathaoirleach: That may well be a procedural point, but it is not a point of order.

Senator Darragh O'Brien: It is on the basis that I do not want it to be stated in the House that the Opposition did not play its part in the debate yesterday.

An Cathaoirleach: That is not a point of order. The Leader to continue, without interruption.

Senator Thomas Byrne: On a point of order, the Leader does not propose to allocate any time for Report Stage. This could be important, especially if amendments or recommendations are ruled out of order or not accepted.

An Cathaoirleach: That matter is to be decided after Committee Stage. That is the way the House proceeds. The Leader to continue, without interruption.

Senator Maurice Cummins: Senator Martin Conway referred to the Clare-Limerick boundary. I understand the Minister will make an announcement on this issue in due course, but we will find out exactly when the announcement on the Limerick boundary in particular will be made.

The Cathaoirleach has stated he will write to Senator David Cullinane. The letter is in the post. Several concessions will be made to Sinn Féin, but the Senator should await the response from the Cathaoirleach on the matter.

The questions of junior doctors and joint labour committees were raised. We will do our best to hold debates on these matters.

Senator Labhras Ó Murchú referred to the proposal to move Private Members' time to an earlier time in the morning after the Order of Business. I would welcome proposals in this regard from whatever side and if it is necessary to change the time, we can do so. I am keen to hold a debate on the issue. Next Tuesday there will be a resumption of the excellent debate commenced last night during Private Members' time. Several Senators wished to come in on the matter yesterday evening. They will have ample opportunity to debate the issue of Seanad reform and the excellent motion brought forward by the Taoiseach's nominees which have formed an Independent group. The relevant points about Private Members' time can be made and if there are further suggestions about the timing, we will take them on board.

Senator Labhras Ó Murchú asked about the situation in Bahrain. The Government has raised this serious matter through the European Union. In addition, although we do not have an ambassador in Bahrain, the ambassador in Riyadh has conveyed our concerns regarding the dreadful atrocities taking place in Bahrain.

Senator Paul Coghlan was — as usual for our County Kerry colleague — keen to sing the praises of the Kingdom and the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan. We all join Senator Fiach Mac Conghail and others in congratulating Colum McCann on his richly deserved achievement in winning the International IMPAC award.

[Senator Maurice Cummins.]

Senator Susan O’Keeffe asked that the Minister for Health be invited to the Chamber for a debate on the reconfiguration of hospitals. The Minister is not scheduled to attend the House in the next two weeks, but I will see about facilitating a debate in three weeks time.

Senator Feargal Quinn spoke about an issue he has often raised regarding organ transplants and the issue of presumed consent in the context of the Human Body Organs and Human Tissue Bill 2008 which he introduced in this House. I will ascertain from the Minister whether it is his intention to proceed with the Bill and will revert to the Senator on the matter.

I am pleased Senator Terry Leyden is showing so much confidence in the Government.

Senator Terry Leyden: The Leader must not have heard me correctly.

Senator Maurice Cummins: Senator Kathryn Reilly asked about the single unified scheme for higher education grants——

Senator Terry Leyden: I asked a question about the health service.

An Cathaoirleach: The Leader must be allowed to continue, without interruption.

Senator Terry Leyden: I had intended to praise the Minister, but I will not do so now.

Senator Maurice Cummins: The new unified scheme will commence in the academic year 2012-13, in other words, local grant awarding bodies will be dealing with it for the coming year.

Senator Denis Landy raised the issue of the loss of telephone signals on new motorways. This issue should be raised with the network providers. I will convey the Senator’s concerns to the Minister.

Senator Mary White called for a debate on alcoholism and the abuse of alcohol, with particular reference to pricing. We will have a debate on mental health issues in two weeks time in response to requests from several Members. The Senator will have an opportunity to raise the issue of alcohol abuse and suicide in the context of that debate.

Senator Mary M. White: My specific point concerned the 71,000 hidden child carers looking after alcohol-dependent parents.

Senator Maurice Cummins: I heard what the Senator said. It is an issue she can raise in the debate to which I referred.

All I can say in response to Senator Michael Mullins’s point on the banks is that one should never be amazed at what Senator Terry Leyden has to say.

Senator Trevor Ó Clochartaigh called for a debate on the arts. I will ask Minister Leyden to come to the House to facilitate the holding of that debate.

Senator Fidelma Healy Eames: Minister Leyden.

Senator Maurice Cummins: That was a Freudian slip. I will ask the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, to accommodate us in that regard.

In regard to fishing and food, we will have a debate in three weeks time on food labelling. The Minister for Agriculture, Fisheries and Food, Deputy Simon Coveney, is scheduled to attend a debate in the House the following week on agriculture and fishing.

Senator Labhras Ó Murchú asked about preparations for the commemoration of the 1916 Rising. I am informed that the Taoiseach indicated to the Dáil on 12 April his intention to re-

establish the Oireachtas consultation group in order to devise a commemorative programme for the various centenary anniversaries in the period to 2016. The committee will also deal with the issue of the buildings on Moore Street. The party leaders were asked to nominate representatives to the committee last month. Some nominations have been received and the remainder are awaited. The committee will be chaired by the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, and it is envisaged that it will meet later this month or in early July. It is intended that a substantial commemorative programme will be brought forward in respect of the turbulent period which culminated in the foundation of the State. This broad and inclusive programme will commemorate these events, acknowledge the achievements that have shaped modern Ireland and will focus attention on the economic and social conditions of the period and the cultural ties with and contributions made by the diaspora to the development of the nation. It is envisaged that the first draft of the commemorative programme for 2012-16 will be discussed with the Oireachtas consultation group in the autumn.

For the information of Members, next week's business will include a continuation of this week's Private Members' motion and a resumption of statements on the jobs initiative and competitiveness. It is also intended to have a debate on European issues with the Minister of State with responsibility for European affairs, Deputy Lucinda Creighton. On Thursday the Social Welfare and Pensions Bill 2011 will be brought before the House. Several Members have called for a debate on various issues relating to social welfare and they will have an opportunity to raise these matters next Thursday.

The following week I intend to facilitate the holding of debates on school transport and unfinished housing estates and developments. In addition, the Finance (No. 3) Bill 2011, implementing certain matters in regard to civil partnership, will be brought before the House, and we will also hear statements on mental health. As I indicated, we will have a debate on food labelling and fisheries in three weeks time.

An Cathaoirleach: Senator Thomas Byrne has proposed an amendment to the Order of Business.

Senator Thomas Byrne: I point out, on behalf of my colleague, Senator Terry Leyden, that the health issues raised by him and other Members were, once again, not addressed by the Leader.

An Cathaoirleach: We are dealing with Senator Thomas Byrne's amendment, "That No. 8, Finance (No. 2) Bill 2011 — Committee and Remaining Stages, be deleted from the Order of Business." Is the Senator pressing the amendment?

Senator Thomas Byrne: Yes.

Amendment put:

The Seanad divided: Tá, 16; Níl, 34.

Tá

Byrne, Thomas.
Crown, John.
Cullinane, David.
Leyden, Terry.
Mooney, Paschal.
Mullen, Rónán.
Norris, David.
Ó Clochartaigh, Trevor.
Ó Murchú, Labhrás.

O'Brien, Darragh.
O'Donovan, Denis.
Power, Averil.
Reilly, Kathryn.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
 Bradford, Paul.
 Brennan, Terry.
 Burke, Colm.
 Clune, Deirdre.
 Coghlan, Eamonn.
 Coghlan, Paul.
 Comiskey, Michael.
 Conway, Martin.
 Cummins, Maurice.
 D'Arcy, Michael.
 Gilroy, John.
 Harte, Jimmy.
 Hayden, Aileen.
 Healy Eames, Fidelma.
 Henry, Imelda.
 Higgins, Lorraine.

Keane, Cáit.
 Kelly, John.
 Landy, Denis.
 Mac Conghail, Fiach.
 Moloney, Marie.
 Moran, Mary.
 Mulcahy, Tony.
 Mullins, Michael.
 Noone, Catherine.
 O'Brien, Mary Ann.
 O'Donnell, Marie-Louise.
 O'Keeffe, Susan.
 O'Neill, Pat.
 Quinn, Feargal.
 Sheahan, Tom.
 van Turnhout, Jillian.
 Whelan, John.

Tellers: Tá, Senators Labhrás Ó Murchú and Diarmuid Wilson; Níl, Senators Paul Coghlan and Susan O'Keeffe.

Amendment declared lost.

Question put: "That the Order of Business be agreed to."

The Seanad divided: Tá, 37; Níl, 13.

Tá

Bacik, Ivana.
 Bradford, Paul.
 Brennan, Terry.
 Burke, Colm.
 Clune, Deirdre.
 Coghlan, Eamonn.
 Coghlan, Paul.
 Comiskey, Michael.
 Conway, Martin.
 Crown, John.
 Cummins, Maurice.
 D'Arcy, Michael.
 Gilroy, John.
 Harte, Jimmy.
 Hayden, Aileen.
 Healy Eames, Fidelma.
 Henry, Imelda.
 Higgins, Lorraine.
 Keane, Cáit.

Kelly, John.
 Landy, Denis.
 Mac Conghail, Fiach.
 Moloney, Marie.
 Moran, Mary.
 Mulcahy, Tony.
 Mullen, Rónán.
 Mullins, Michael.
 Noone, Catherine.
 Norris, David.
 O'Brien, Mary Ann.
 O'Donnell, Marie-Louise.
 O'Keeffe, Susan.
 O'Neill, Pat.
 Quinn, Feargal.
 Sheahan, Tom.
 van Turnhout, Jillian.
 Whelan, John.

Níl

Byrne, Thomas.
 Cullinane, David.
 Leyden, Terry.
 Mooney, Paschal.
 Ó Clochartaigh, Trevor.
 Ó Murchú, Labhrás.
 O'Brien, Darragh.

O'Donovan, Denis.
 Power, Averil.
 Reilly, Kathryn.
 Walsh, Jim.
 White, Mary M.
 Wilson, Diarmuid.

Tellers: Tá, Senators Paul Coghlan and Susan O'Keeffe; Níl, Senators Labhrás Ó Murchú and Diarmuid Wilson.

Question declared carried.

Standing Order 45: Motion

Maurice Cummins: I move:

That, notwithstanding anything in Standing Orders, with effect from the 21st June, 2011 and until further notice in the 24th Seanad, Standing Order 45 of the Standing Orders of Seanad Éireann relative to Public Business is hereby amended by the substitution of the following paragraph for paragraph (b):

‘(b) the speech of a Senator proposing a motion shall not exceed ten minutes; the speech of the Minister or Minister of State concerned shall not exceed fifteen minutes and the Senator proposing, or such other Senator who has not already spoken as he may authorise in that behalf, shall be entitled to four minutes for a speech in reply; the speech of any other Senator in the course of the debate shall not exceed six minutes.’

Question put and agreed to.

Establishment of Committees: Motions

Senator Maurice Cummins: I move:

(1) That Select Committees as set out in column (1) of the Schedule hereto are hereby appointed pursuant to Standing Order 70A.

(2) Each Committee shall perform the functions set out in Standing Order 70A in respect of the Government Department or Departments listed in column (2) opposite each Committee (in anticipation of the coming into effect of the necessary Government Orders in relation to names of Departments and titles of Ministers and transfer of Departmental Administration and Ministerial Functions).

(3) The number of members appointed to each Select Committee shall be as set out in column (3).

(4) Each Select Committee shall be joined with a Select Committee appointed by Dáil Éireann to form a Joint Committee to carry out the functions set out in Standing Order 70A.

(5) Each Select Committee shall have the powers defined in Standing Orders 101 and 103.

(6) Each Joint Committee shall have the powers defined in Standing Orders 71 (other than paragraph (2A) thereof), 101 and 103.

(7) The Select Committee at row 6 of the Schedule shall have the powers defined in Standing Order 102(1)(b).

(8) Standing Order 99 shall not apply to this Seanad.

SCHEDULE

	(1) Committee	(2) Department/s	(3) Number of members
1	Select Committee on Foreign Affairs and Trade	Foreign Affairs and Trade	6

[Senator Maurice Cummins.]

	(1) Committee	(2) Department/s	(3) Number of members
2	Select Committee on Finance, Public Expenditure and Reform	Finance Public Expenditure and Reform	6
3	Select Committee on Jobs, Social Protection and Education	Jobs, Enterprise and Innovation Social Protection Education and Skills	6
4	Select Committee on Environment, Transport, Culture and the Gaeltacht	Environment, Community and Local Government Transport, Tourism and Sport Arts, Heritage and the Gaeltacht	6
5	Select Committee on Communications, Natural Resources and Agriculture	Communications, Energy and Natural Resources Agriculture, Marine and Food	6
6	Select Committee on Justice, Defence and Equality	Justice and Equality Defence	5
7	Select Committee on Health and Children	Health Children and Youth Affairs	7

Question put and agreed to.

Senator Maurice Cummins: I move:

(1) That a Select Committee, which shall be called the Select Committee on European Union Affairs, consisting of 5 members of Seanad Éireann, be appointed to consider such matters arising from—

(a) Ireland's membership of the European Union, and

(b) Ireland's adherence to the Treaty on European Union and the Treaty on the Functioning of the European Union,

as it may select and which are not referred to any other Committee.

(2) The Select Committee shall be joined with a Select Committee appointed by Dáil Éireann, to form the Joint Committee on European Union Affairs, which, without prejudice to the generality of paragraph (1), shall consider—

(a) the EU Commission's strategic planning documents including the Commission Work Programme,

(b) cross-sectoral policy developments at European Union level,

(c) matters listed for consideration on the agenda for meetings of the General Affairs Council of Ministers and the outcome of such meetings,

(d) such regulations under the European Communities Acts 1972 to 2009 and other instruments made under statute and necessitated by the obligations of membership of the European Union as the Committee may select,

(e) notifications referred by the Seanad under Standing Order 102 (1)(a),

(f) notifications of proposals for the amendment of the Treaties received from the European Council pursuant to Article 48.2 of the Treaty on European Union,

(g) notifications of applications for membership of the European Union received from the European Council pursuant to Article 49 of the Treaty on European Union, and

(h) such other matters as may be referred to it by the Seanad from time to time.

(3) The Joint Committee shall report to both Houses of the Oireachtas on the operation of the European Union (Scrutiny) Act 2002.

(4) The Joint Committee shall have the powers defined in Standing Orders 71 (other than paragraph (2A) thereof), 101, 102(1)(a) and 103.

(5) The Joint Committee shall have the power to make recommendations to the Minister for Foreign Affairs and Trade (or Minister of State) on European Union matters.

(6) The following may attend meetings of the Joint Committee and take part in proceedings without having a right to vote or to move motions and amendments:

(a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other Members of the European Parliament.

(7) The Joint Committee shall represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) and shall report to both Houses of the Oireachtas thereon.

(8) The Chairman of the Joint Committee shall be a member of Dáil Éireann.

Question put and agreed to.

Senator Maurice Cummins: I move:

(1) That a Select Committee consisting of 5 members of Seanad Éireann be appointed to be joined with a Select Committee to be appointed by Dáil Éireann to form the Joint Committee on the Implementation of the Good Friday Agreement to consider—

(a) issues arising from Ireland's role as a signatory to the Good Friday Agreement,

(b) ongoing developments in the implementation of the Good Friday Agreement, and

(c) any proposals relating to the implementation of the Good Friday Agreement and such related matters as shall be referred to it by the Dáil and/or the Seanad from time to time,

and to report back to both Houses of the Oireachtas at least once a year.

(2) The Joint Committee shall have the powers defined in Standing Order 71, other than paragraph (2A), (4A), (4B) and (6A) thereof.

(3) The Minister for Foreign Affairs and Trade (or a member of the Government or Minister of State nominated in his or her stead) shall be an ex officio member of the Committee and shall be entitled to vote in proceedings.

[Senator Maurice Cummins.]

(4) Members of the Westminster Parliament elected from constituencies in Northern Ireland may attend meetings of the Joint Committee and of its sub-Committees and may take part in proceedings without having a right to vote or to move motions and amendments.

(5) The Chairman of the Joint Committee shall be a member of Dáil Éireann.

Question put and agreed to.

Senator Maurice Cummins: I move:

(1) That a Select Committee consisting of 5 members of Seanad Éireann be appointed to be joined with a Select Committee to be appointed by Dáil Éireann to form the Joint Committee on Investigations, Oversight and Petitions, to consider—

(a) the design of a petitions system for the Houses of the Oireachtas,

(b) the role and remit of the Joint Committee having regard to the Programme for Government, and

(c) any other related matters,

and to report back to both Houses of the Oireachtas with recommendations, including revised Orders of Reference for the Joint Committee, by 30th September, 2011.

(2) The Joint Committee shall have the powers defined in Standing Order 71, other than paragraph (2A), (4A), (4B) and (6A) thereof.

(3) The Chairman of the Joint Committee shall be a member of Dáil Éireann.

Question put and agreed to.

Standing Orders: Motion

Senator Maurice Cummins: I move:

That, notwithstanding anything in Standing Orders, the following amendments be made to the Standing Orders of Seanad Éireann relative to Public Business until further notice in the 24th Seanad:

1. Standing Order 67 is hereby amended by the insertion of the following paragraph after paragraph (2):

‘(2A) The rules as to procedure in Select Committees shall apply, as appropriate, to procedure in sub-Committees of such Committees.’.

2. Standing Order 70 is hereby amended by the insertion of the following subparagraphs after paragraph (2)(b):

‘(c) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Dáil Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993; and

(d) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(i) a member of the Government or a Minister of State, or

(ii) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas;

Provided that the Chairman may appeal any such request made to the Cathaoirleach, whose decision shall be final.’

3. The following additional Standing Order is hereby adopted:

‘70A. (1) The Seanad may appoint a Select Committee to consider and report to the Seanad on—

(a) such aspects of the administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and

(b) European Union matters within the remit of the relevant Department or Departments.

(2) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Dáil Éireann for the purposes of the functions set out in this Standing Order and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), a Select Committee appointed pursuant to this Standing Order may consider the following matters in respect of the relevant Department or Departments and associated public bodies:

(a) matters of policy for which the Minister is officially responsible,

(b) public affairs administered by the Department,

(c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

(d) Government policy in respect of bodies under the aegis of the Department,

(e) policy issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,

(f) the general scheme or draft heads of any Bill published by the Minister,

(g) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,

(h) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,

(i) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in paragraph (3)(d) and (e) and the overall operational results, statements of strategy and corporate plans of such bodies, and

[Senator Maurice Cummins.]

(j) such other matters as may be referred to it by the Seanad from time to time.

(4) Without prejudice to the generality of paragraph (1), a Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 101, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, and

(d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(5) The Chairman of a Joint Committee appointed pursuant to this Standing Order shall be a member of Dáil Éireann.

(6) The following may attend meetings of a Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (4) and may take part in proceedings without having a right to vote or to move motions and amendments:

(a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other Members of the European Parliament.’.

4. Standing Order 71 is hereby amended by—

(a) the insertion of ‘oral presentations and’ before ‘written submissions’ in paragraph (2);

(b) the insertion of the following paragraph after paragraph (2):

‘(2A) power to send for persons, papers and records;’

(c) the deletion of all words after ‘new legislation;’ in paragraph (4);

(d) the insertion of the following paragraphs after paragraph (4):

‘(4A) power to examine any statutory instrument, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009, and to recommend, where it considers that such action is warranted, whether the instrument should be annulled or amended;

(4B) for the purposes of paragraph (4A), power to require any Government Department or instrument-making authority concerned to submit a Memorandum to the Select Committee explaining any statutory instrument under consideration or to attend a meeting of the Select Committee for the purpose of explaining any such statutory instrument: Provided that such Department or authority may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Seanad;’ and

(e) the insertion of the following paragraph after paragraph (6):

‘(6A) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the member of the Government or Minister of State, oral briefings in advance of meetings of the relevant EU Council of Ministers to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;’.

5. The following additional Standing Order is hereby adopted:

‘82A. (1) Unless otherwise provided by these Standing Orders or by Order of the Seanad, the quorum of a Select Committee or of a sub-Committee thereof, shall be either—

(a) three, or

(b) one quarter of the total number of members required to be appointed to the Committee, or sub-Committee as the case may be, whichever is the greater, and in calculating the quorum, fractions shall be counted as one.

(2) A member of Seanad Éireann attending pursuant to Standing Order 80(2) shall not be counted for the purposes of determining a quorum.

(3) The quorum of a Joint Committee shall be the combined quorum of the two Select Committees of which it is comprised, minus one: Provided that for the purposes of determining a quorum, at least one of the members present shall be a member of Seanad Éireann and one a member of Dáil Éireann.’.

6. Standing Order 101 is hereby amended by—

(a) the insertion of the following proviso to paragraph (3)(c):

‘Provided that the Seanad may substitute, add to or otherwise vary, the reasoned opinion set out in the Committee’s report by way of amendment to the motion tabled by the Chairman under this paragraph;’ and

(b) the substitution of the following for paragraph (3)(d):

(4) Where the Seanad agrees a motion tabled pursuant to paragraph (3)(c) of this Standing Order, either with or without amendment, the Cathaoirleach shall cause a copy of—

(a) the Resolution agreed by the Seanad,

(b) the reasoned opinion agreed by the Seanad, and

[Senator Maurice Cummins.]

(c) the report of the Committee referred to in paragraph (3)(c),

to be sent to the Presidents of the European Parliament, the Council and the Commission.

Question put and agreed to.

Fair Deal Nursing Home Scheme: Statements

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank the Cathaoirleach and Senators for giving me the opportunity to make a statement on the fair deal nursing home support scheme. I acknowledge that the events of the past few weeks have been very worrying for older people and their families owing to the uncertainty surrounding the funding of the scheme. As I am sure Senators are aware, the HSE recommenced issuing approvals last Monday for financial support under the scheme. It will work through the applications which have been processed to final stage in the past few weeks in chronological order. The Minister for Health, Deputy James Reilly, has also identified savings in other non-service related spending areas which will be used to facilitate the payment of financial support to an additional 1,700 applicants between now and the end of the year. On this basis, it is estimated that the total number who will be in receipt of financial support by the end of the year should be almost 24,000.

For those Senators not familiar with the scheme, it is a system of financial support for individuals in public, voluntary and approved private nursing homes. The scheme is available to anyone who has been assessed as needing long-term nursing home care, including dementia-specific nursing home care. The introduction of the scheme brought about a fundamental change in the way in which long-term nursing home care was funded. It supports individuals in need of long-term nursing home care, not the facility providing such care. This means the money follows the patient, regardless of whether he or she chooses a public, private or voluntary nursing home. This ensures facilities are not being funded for empty beds.

Under the scheme, individuals contribute up to 80% of their assessable income and a maximum of 5% of the value of any assets per annum towards the cost of their care. The first €36,000 of an individual's assets, or €72,000 in the case of a couple, is not counted in the financial assessment. An individual's principal residence is only included in the financial assessment for the first three years of his or her time in care. This is known as the 15% or three year cap. It means individuals pay a 5% contribution based on their principal residence for a maximum of three years, regardless of the length of time they spend in nursing home care. After three years, even if an individual is still in long-term nursing home care, he or she will not pay further contributions based on his or her principal residence. The three year cap applies, regardless of whether an individual chooses to opt for a loan. The intention of the cap is to protect the family home. In the case of a couple, the financial assistance is based on half their combined income and assets.

Under the scheme, the cost in each public nursing home is determined using the definition of "long-term residential care service", underpinned by an agreed set of cost components which has been laid before the Houses of the Oireachtas. The cost of care is reviewed on an annual basis. When the review was carried out in 2010, the cost of care reduced in approximately 80% of nursing homes. The 2011 review is under way. The National Treatment Purchase Fund has statutory responsibility for the negotiation of prices in nursing homes, including voluntary nursing homes. It is independent in the performance of this function. It may examine the records

and accounts of nursing homes and has a particular responsibility to ensure value for money for the individual and the State.

The Nursing Home Support Scheme Act 2009 defines long-term residential care services as maintenance, health and personal care services. The services which fall within the scope of long-term residential care are nursing and personal care appropriate to the level of care needs of a person; basic needs and appliances necessary to assist a person with the activities of daily living; bed and board; and laundry services. The scheme does not cover therapies because a person's eligibility for other schemes such as the medical card or drugs payment scheme is unaffected by the nursing home support scheme. In other words, a person can continue to receive goods and services in accordance with the terms of other schemes, regardless of whether he or she is in a nursing home or elsewhere.

In determining the services covered by the scheme, it was considered very important that care recipients and taxpayers be protected and not end up paying for the same service twice. For this reason, goods and services already prescribed for individuals under an existing scheme are not included in the services covered by the scheme because it would involve paying twice for the same items or services.

Budget 2011 provided €1.011 billion for long-term residential care services. This was effectively the budget for the nursing home support scheme, albeit that transitional arrangements must also be facilitated from within the subhead, for example, people in contract beds, those who choose to remain in receipt of subvention and saver cases in public nursing homes.

In May this year the Minister became aware of a potential serious shortfall in the 2011 budget for the scheme. He requested that his officials, in conjunction with the HSE, carry out a full examination of the funding position and the sustainability of the scheme. Following that examination, it is clear that a number of factors were putting pressure on the overall budget for 2011. These included an unexpected and unexplained increase in the average length of stay for nursing home patients; the resultant higher net demand for nursing home places; the increase in nursing home costs; and payments for ancillary services for residents in nursing homes, for example, therapies and drugs which were not intended to be funded from the subhead. I understand this amounts to €48 million, not €100 million as originally indicated.

As stated, the HSE has recommenced issuing approvals for financial support under the scheme. The Minister has informed the HSE that the only items which can be posted to the long-term residential care subhead are those covered by the cost components in respect of the care services of public nursing homes. Documents have been laid before the Houses of the Oireachtas in respect of public nursing homes and the costs agreed with the National Treatment Purchase Fund for private nursing homes. The Minister has asked the HSE to put in place additional and more rigorous governance and reporting measures which his officials will monitor more closely in the remainder of the year. The fact that the scheme is relatively new means there is a lack of historical statistical data on which to base definitive conclusions or forecasts. The HSE has been asked to prioritise the full roll-out of its ICT and management systems to address the information deficit.

The Minister is anxious to try to identify the reasons behind the unforeseen increase in the number of applications and the average length of stay in nursing homes. He has, therefore, requested the HSE to undertake a clinical audit of the appropriateness of care and admissions. The HSE has commenced its review of the cost of public beds. It is anticipated that the review will show a reduction in the cost of care through skills reconfiguration and the driving of efficiencies.

[Deputy Kathleen Lynch.]

The Minister has instructed the National Treatment Purchase Fund to renegotiate with private and voluntary nursing homes with a view to achieving price decreases because the increases agreed in recent months are not sustainable. The programme for Government commits us to a review of the system of financing nursing home care with a view to developing a secure and equitable system of financing community and long-term care. This commitment will be carried through.

In addition, the nursing home support scheme is due for formal review, commencing in 2012, at which time it will have been three years in operation. The reason for allowing this period to elapse is to ensure established and validated trends and statistics will be available. It is still intended to proceed with the review which will examine the ongoing sustainability of the scheme, the relative cost of public versus private provision and the balance of funding between residential and community care.

I very much regret the anxiety that was caused to older people and their families as a result of the uncertainty over the nursing home support scheme. I know what a worrying time it can be when individuals and their families have to make the decision to move into a nursing home. We moved as quickly as possible to re-establish certainty and clarity on the scheme's future. I will ensure that the scheme continues in a fair, transparent and sustainable manner.

Senator Mary M. White: It is my pleasure to welcome the Minister of State, Deputy Kathleen Lynch, to the House. Having participated with her on the former Committee on Health and Children, I know she will efficiently address the issues that need to be resolved. I also know how passionate and genuine she is in dealing with people in need, including those who may have been forgotten.

The new fair deal scheme was welcomed by many people, including me. As my party's spokesperson for children and older people in the last Seanad, I praised the then Minister for Health and Children, Ms Mary Harney. I felt it was one of the former Minister's greatest achievements, but on current evidence it is anything but. There are many failings in the scheme, which is disappointing. The main factor was that we were to have equitable and consistent pricing around the country for people in private nursing homes. In addition, no elderly person or their families would have to worry about raising the money themselves because it would be levied after the resident's passing.

However, from my experience of talking to those dealing with older people in residential care, it is apparent that it is complicated for the elderly to apply for such care. If they own their own home there are issues concerning personal capacity and an older person may need to apply for ancillary State support. The nursing home support scheme clearly states that no solicitor is required for ancillary State support, but as two medical capacity reports from two medical practitioners are required, some doctors are asking for a solicitor's request prior to issuing the reports.

This ancillary support also means that a proposed care representative has to attend a hearing in the Circuit Court, which is daunting for older persons and their relations. In addition, there is a cost involved with the solicitor and the court, plus the cost of valuing property from an estate agent. These costs are significant for old age pensioners.

Another serious issue is the lack of nursing home beds. Public nursing homes have vacant beds which cannot be filled due to a lack of staffing. One public nursing home — Brú Chaoimhín in Cork Street — was recently closed as it was not able to meet HIQA's requirements. As a result, the residents had to be accommodated in other public nursing homes and therefore overall bed numbers have been further reduced.

Private nursing homes in the Dublin area — and most acutely in Dublin south-central, south-west and west — have literally no vacancies. Patients are thus being strongly encouraged to accept placements in Kildare, Wicklow or Meath. Once the nursing home support scheme is approved, the HSE states in its approval letter that a patient has ten working days to transfer to a nursing home. Due to the lack of beds, however, this is impossible.

Most private nursing homes are issuing a weekly charge to older people on top of their nursing home support scheme contribution of €150 per week. They went in knowing that they would be able to support themselves financially, but because of the wide range of items not covered by the scheme, a further €150 per week is being added. This was decided by nursing homes in agreement with the HSE.

In some Dublin teaching hospitals, the number of patients currently waiting for a bed in a nursing home is 50. Acutely unwell patients cannot go home, as they would be unsafe, but cannot be transferred to nursing homes either as their applications have not yet been approved. Or when the applications are approved, there are no vacancies. This is not only having a negative impact on patients' health, as they do not receive the stimulation they need, but they are also exposed to infections. In addition, they are preventing patients in emergency departments from being admitted.

I am optimistic that the Minister for Health, Deputy Reilly, will be a good Minister. However, despite his statement on 9 June announcing that the support scheme would resume on 13 June, as of yesterday, HSE offices had not received clearance for this. Even patients approved for the nursing home support scheme are not being admitted to nursing homes as there is no guarantee that payments will be met.

There is concern that the scheme was budget-capped and that, at some point, the money will run out. Our main concern is that there does not seem to be a wait-listing system, or some alternative, while funds become available.

I was excited by the fair deal scheme when it was announced, but I am disappointed by how it has turned out. It is clear to me that the fault lies with the Department of Health because the scheme has not been adequately thought out. The Minister has a major job on his hands to bring the Department of Health — like many other Departments — up to 21st century standards in conducting its business.

Senator Colm Burke: I welcome the Minister of State to the House and thank her for providing that clarification in her speech.

I welcome the move by the Minister to restart the processing and acceptance of applications under the fair deal scheme. This move brings clarity to the situation and will be a relief for thousands of older people and their families throughout the country. I hope the 2,900 applications, which are pending, will be processed as soon as possible. I call for a fast-track procedure to be used for these cases.

Long-term nursing home care is a difficult decision for families and their loved ones, and should be as anxiety free as possible. This recent episode with the fair deal scheme highlights many of the problems we associate with nursing home care in Ireland. It is incredible that a scheme such as the fair deal one could run out of money less than two years after it was established. At that time, it was sold as a sustainable model for funding nursing home care.

I am calling for a 20-year national strategy for the care of the elderly. It should set out an all-encompassing vision for nursing care, a detailed step-by-step plan to achieve that goal, and develop a sustainable funding model with built-in, five-yearly reviews.

[Senator Colm Burke.]

Planning for long-term care for our elderly is one of the most important duties of society. It should be one of the easiest strategies to formulate because statistics and projections give an accurate idea of how many older people the population will include in 20 years time. The figures we have to face in this regard are frightening. There are currently just over half a million people aged over 65, and around 125,000 aged over 80. Meanwhile, we have 24,429 residents in nursing homes and over the next 20 years these figures will double.

Last week, population projections predicted that Ireland will have more than 1 million people aged over 65 — and more than 270,000 people over the age of 80 — by 2030. This will present a huge challenge to our health and social services, so it is imperative to plan for it now. Such an increase in the numbers of people in these age brackets makes it incumbent upon policymakers to plan now for the challenges we will face in the future. These figures require a comprehensive, holistic plan to ensure those who have spent their lives working and contributing to our society and economy are properly cared for.

I do not want any Member to take this personally but the approach the Department of Health and the HSE have adopted since the 1970s can at best be described as piecemeal and haphazard, lacking coherence and direction. There was no eye on the future, no forward planning and no big picture. We have witnessed mismanagement and an approach that is less connected with good policy and administration and more closely resembles fire fighting.

The nursing home care system in this country has been at the centre of some controversy in recent years, especially the nursing home charges scandal, where it was revealed that more than 300,000 people were charged illegally over a period of 28 years. It is interesting that, as far back as 1976 in the case of Maud McNerney, the High Court decided that nursing home care came under a definition of medical care and for 28 years the Department did not respond to it.

Time and again the HSE, its predecessors the health boards, and the Department of Health have been criticised for failures in the provision of nursing home care and provision. The Ombudsman's report, entitled "Who Cares? An Investigation into the Right to Nursing Home Care in Ireland", was published in November 2010, only a few months ago. That report states: "Access to nursing home care ... has been marked by confusion, uncertainty, misinformation, inconsistency and inequity." It is time we ensured such mistakes were not made again. The report also states: "At the administrative and institutional level, the continuation over such a long period of such unacceptable practices suggests inflexibility, non-responsiveness and a reluctance to face reality." The report further states:

Both the Department and the HSE have challenged the jurisdiction of the Ombudsman in conducting this investigation and both bodies have refused to provide information and documentation required by the Ombudsman for the purposes of the investigation. In the case of the Department, the refusal to co-operate extends to virtually all of the material sought. In the case of the HSE, while it provided material in relation to individual complaints, it refused to provide much of the other material required. In their submissions to the Ombudsman, having considered material from a draft of this report, both the Department and the HSE made further, and (in the case of the former) very detailed challenges to the Ombudsman's jurisdiction to undertake this investigation and to report on it to the Dáil and Seanad.

One of the objectives in setting up the Office of the Ombudsman was to ensure we would work together to provide solutions to the problems we face, but instead we seem to have buried our heads in the sand. We need to rethink how we deal with these issues.

This characterisation of the attitude within both the Department of Health and the Health Service Executive is a cause for serious concern. If this is the prevailing mindset of those involved in the administration of policy, then we have much to worry about. Part of the problem is placing legal obligations upon a body without providing adequate resources for that body to fulfil its obligations.

It is also necessary to consider briefly the 2005 Travers report on the practice of charging persons in long-stay care in health board institutions which also criticised failures on the part of the Department of Health. It is clear that in the past the Department of Health, the health boards and the HSE have behaved in a lax and less than circumspect manner in regard to care of the elderly and nursing care in particular. This failure by the Department to fulfil its role in policy formation is a serious issue and one I hope the Minister will address with all eagerness and haste.

Too often in the past we have failed to plan in Ireland and it is the vulnerable who have suffered most from such failure. There can be no excuse, however, not to plan for the drastic increase in the number of older people. We should see this as an opportunity to take care of our elderly, to recognise them, to show our respect and to honour their contribution to this country. We need to develop a system designed to meet the needs of double what the current system is handling. We need to make certain that any system of care has at its heart humanity, respect for human dignity and compassion. Any strategy must have at its core a fundamental respect for the wishes of the individual and his or her family. The goal of any system of elder care must be to enable our elderly to live in their own homes and communities for as long as they wish. Creative solutions must be employed in order that this aim can be achieved. We should look to other countries who are further along the demographic path we are heading, emulate what is good and learn the lessons from their mistakes. We need to ensure a whole community approach is adopted comprising solutions incorporating families, the voluntary and private sectors as well as the public system. No person should fear growing old in Ireland, unsure as to whether and how he or she will provide for himself or herself and his or her care. Community care, home help, day centres, community homes and nursing homes will all have a role to play in ensuring Ireland is a country for old people. All these services and facilities must be part of that mix in a long-term plan.

We must be realistic, honest and creative in the way we plan to fund any new system. Without adequate funding, the best designed systems in the world cannot function. The current fair deal model has its strengths but it also has its weaknesses. We must face up to the simple fact that a funding model dependent on a property market is inherently unstable. In many other countries there are systems working efficiently and well and we should examine those. We can use them as templates in finding a long-term, sustainable model for ensuring the recent funding issues will not arise again. This will present the greatest challenge in the formulation of any plan, but it is one we must address head on.

Acting Chairman (Senator Diarmuid Wilson): Before I call Senator Quinn, I call the Leas-Chathaoirleach to report on the Committee of Selection.

Second Report of the Committee of Selection: Motion

An Leas-Chathaoirleach: The Committee of Selection reports that it has nominated the following Members to serve on the Select Committee on Foreign Affairs and Trade: Senators Deirdre Clune, Mark Daly, Lorraine Higgins, Michael Mullins, David Norris and Jim Walsh.

The Committee of Selection reports that it has nominated the following Members to serve on the Select Committee on Finance, Public Expenditure and Reform: Senators Sean D.

[An Leas-Chathaoirleach.]

Barrett, Thomas Byrne, Michael D’Arcy, Aideen Hayden, Tom Sheahan and Katherine Zappone.

The Committee of Selection reports that it has nominated the following members to serve on the Select Committee on Jobs, Social Protection and Education: Senators Deirdre Clune, John Kelly, Michael Mullins, Marie-Louise O’Donnell, Averil Power and Feargal Quinn.

The Committee of Selection reports that it has nominated the following members to serve on the Select Committee on Environment, Transport, Culture and the Gaeltacht: Senators Eamonn Coghlan, Cáit Keane, Denis Landy, Catherine Noone, Labhrás Ó Murchú and Ned O’Sullivan.

The Committee of Selection reports that it has nominated the following members to serve on the Select Committee on Communications, Natural Resources and Agriculture: Senators Michael Comiskey, Paschal Mooney, Pat O’Neill, Mary Ann O’Brien, Brian Ó Domhnaill and John Whelan.

The Committee of Selection reports that it has nominated the following members to serve on the Select Committee on Justice, Defence and Equality: Senators Ivana Bacik, Paul Bradford, Martin Conway, Rónán Mullen and Denis O’Donovan.

The Committee of Selection reports that it has nominated the following members to serve on the Select Committee on Health and Children: Senators Colm Burke, John Crown, David Cullinane, John Gilroy, Imelda Henry, Marc MacSharry and Jillian van Turnhout.

The Committee of Selection reports that it has nominated the following Members to serve on the Select Committee on European Union Affairs: Senators Colm Burke, Fidelma Healy Eames, James Heffernan, Terry Leyden and Kathryn Reilly.

The Committee of Selection reports that it has nominated the following Members to serve on the Select Committee on the Implementation of the Good Friday Agreement: Senators Jim D’Arcy, Maurice Cummins, Martin McAleese, Mary Moran and Mary White.

The Committee of Selection reports that it has nominated the following Members to serve on the Select Committee on Investigations, Oversight and Petitions: Senators Trevor Ó Cloch-artaigh, Jimmy Harte, Tony Mulcahy, Darragh O’Brien, Susan O’Keeffe.

The Committee of Selection reports that it has nominated the following members to serve on the Joint Committee on Administration: Senators Terry Brennan, Paul Coghlan, Marie Moloney and Diarmuid Wilson.

I move: “That the report be laid before the Seanad.”

Question put and agreed to.

Fair Deal Nursing Home Scheme: Statements (Resumed)

Senator Feargal Quinn: I would like to share my time with Senator Mullen.

Acting Chairman (Senator Diarmuid Wilson): Is that agreed? Agreed.

Senator Feargal Quinn: I thank the Minister of State for her words on this scheme and it was interesting to hear them. I did not know much about nursing homes, but my mother-in-law went into one last year. It was the last year of her life and she died last month at the age of 101 and a half years. We were counting half birthdays by that stage. While she was not involved in the fair deal scheme, I was impressed by the service and attention she received. I

also got to know a number of people who were in the nursing home under the fair deal scheme. The concept was a good one.

The Minister of State has given an explanation. What has happened is shocking. The Minister of State referred to the €100 million that should have been allocated to the scheme but was instead allocated to therapies and drugs. I do not know what would be done in the health service, but if such occurred in a private enterprise, heads would roll and there would be an outcry. I am sure the Government has taken steps to solve the problem, but that it could happen at all is of concern.

I wish to speak in broader terms. I am concerned about care for older people. A new report conducted by the Saga Group, a company that markets to older people and others, highlights the vast differences in social care spending for the elderly throughout the EU. Of the 20 countries surveyed, Italy spends the most and Ireland the least. Italy and France spend more than 11% of GDP on services for seniors, which shows that those nations have some of the best policies for the aging boomer population. At the other end of the scale are the UK with 5.8%, the Netherlands with 5.3% and – guess where we come in – Ireland, last with 3.1% of GDP spent on the elderly. With so little funding to provide assistance for older adults, some experts speculate that these nations will be prone to deeper care problems in the near future. With fewer initiatives in place, seniors have a more difficult time getting help in their day-to-day lives.

This is a stark situation when one considers the findings of a new EUROSTAT survey. According to it, people aged over 65 years of age will account for 22% of Ireland's population by 2060, with those aged over 80 years representing 12%. The former is double the current figure of approximately 11%. We must take steps to take the long term into account.

A report published by the Department of Finance last April concerned me. It identified the expected explosion in the number of older citizens as a significant problem for long-term financial stability. The report claimed the situation would result in increased public expenditure. An aging population can cause problems for a country if the working population is not large enough to support the welfare of the elderly. The report read: "Projections indicate that public spending on pensions, health and long-term care will increase from 12 per cent of GDP in 2007 to 15 per cent by 2030 and to 21 per cent by 2060". The report also said that potential savings from education expenditure will contribute only a small offsetting amount and that as a result, steps taken could include increasing the population at work, cutting age-related spending and improving the country's productive capacity. How can we consider cutting age-related spending when we spend the least in Europe? The situation seems to be laying the foundations of a much larger problem.

What is the Minister of State's opinion on assisted living accommodation? Ireland does not seem to have gone in this direction, unlike the United States of America where assisted living communities are commonplace. Many people do not need to live in nursing homes and only need a little bit of help. They could live independently and the ratio of nurses to older people would be low. In the long term, we need to move from a nursing home-oriented system to one in which people either stay at home or in assisted living communities, as Senator White suggested.

Consider the raft of apartment blocks owned by the National Asset Management Agency, NAMA. Instead of nursing homes, would they not be ideal for those who, with just a little help, could live on their own? Could this not reduce the cost to the State of providing nursing care? It would appear to incur a lower cost and be more appreciated. My mother-in-law preferred to stay at home and it was not until the very end that she was not able to.

[Senator Feargal Quinn.]

The cost of private nursing homes has increased by approximately 4% this year. If we started assisted living communities, we could contribute to the solution. I would be interested in the Minister of State's opinions on this subject. We must take the long-term approach. The fair deal concept was ideal. Although we need to make something like it work, we need to find a better solution for the long term more so.

Senator Rónán Mullen: Gabhaim buíochas leis an Seanadóir Quinn as ucht a cuid ama a roinnt liom. Cuirim fáilte roimh an Aire Stáit. I have welcomed the Minister of State to the House previously. If she pardons me, I will start on a slightly negative note, in that it would be helpful if we could be supplied with ministerial speeches earlier in the proceedings. She had interesting comments to make and Senators will want to respond. It would be wonderful if members of the Government would circulate speeches days in advance. This would seem to create a somewhat artificial situation but, as Ministers and Ministers of State generally speak from prepared notes, having an idea of what they will say would be useful for Members. The point of the exercise is for us to make representations and proposals to the Government and for the Government to respond. It is not the Minister of State's fault, but I would be grateful if she took this message with her. I am concerned about the speech because I noted the Minister of State's comments regarding the fair deal nursing home scheme and the €100 million that seems to have been spent elsewhere, with only €48 million being spent on the scheme. This chaos is troubling people.

Approximately €1 billion has been allocated for nursing home support. According to one programme I heard, though, some €1.5 billion will be required. If so, will there be enough money to fund the system for everyone who needs it? One must be concerned about the HSE's *modus operandi*, given the spending of money under the wrong heading. However, another concern relates to the apparent serious discrepancy between private and public nursing home costs. According to some reports, private nursing homes cost up to 50% less than their public equivalents. The Minister was correct about this being an unsustainable situation, one that points to a lack of efficiency and value for money within the public service. If so, why does the Minister's focus appear to be on reducing costs in the private sector? Saving €20 million would be great, but greater savings might be made by addressing the public provision of nursing home care.

While the train has left the station to some extent, Professor Des O'Neill, a gerontologist and someone whose opinions on this matter we should take seriously, has raised an important issue, namely, the difference in attitudes towards funding long-term nursing home care for older persons and other types of care, such as cancer care — an expert in this field is a Senator — and coronary care. People are required to stump up for nursing home care with their private property, a scenario never envisaged in respect of the other types of health care. Professor O'Neill has referred to the fair deal scheme as the great candy snatch of the 21st century. Is it not dangerous that the State is endorsing an approach whereby the frailest and most complex group of people in society — I do not mean this in a disparaging sense, as I am only referring to their needs — are seen as a soft touch across the board and are not receiving equality of treatment with other illness groupings, for example, sufferers of cancer and heart disease? We need to discuss this issue. A question must be asked about the underlying philosophy of our approach.

Yesterday was World Elder Abuse Awareness Day. Although a related matter is before the courts, I ask the Minister of State about the current controversy. Is it not frightening that a controversy has arisen about a home that the Health Information and Quality Authority, HIQA, investigated and deemed not to have any problem? If HIQA orders a home to close,

must people be removed from a setting where, whatever its faults, they are comfortable? Should we not consider an examinership system whereby someone could take charge of and run the home? Perhaps this is already the case, but a certain amount of confusion is caused in the public's mind when people are told of HIQA securing an order to close down a home. I wonder about the impact of such an order on residents. Perhaps the Minister of State could explain the situation to us.

I wish to raise an issue of concern to older persons in care. Recently, a woman wrote to me about what she called the appalling practice in our hospitals of having male and female patients in the same ward. She described how a person aged 92 admitted to Beaumont Hospital was nursed in a six-bed ward with five men. When she brought this to the attention of one of the managers she was told the person was probably not aware of her surroundings, which, again, shows a certain underlying attitude. Another lady brought to an accident and emergency department in the middle of the night suffering with high blood pressure was placed on a trolley in a big open ward with a man on either side of her, one of whom was disoriented and kept putting out his hand and touching her. My correspondent adds, in a somewhat dry aside, that this treatment was not conducive to lower the woman's blood pressure. I do not wish to trivialise this matter. An issue arises in regard to how we are treating people in full time care. I raise this issue in the context of hospice friendly hospital care.

I accept this matter is not directly related to the fair deal scheme but this debate provides us with an opportunity to raise issues and touch on human dignity in the context of the care of older persons. Perhaps the Minister will today or at a later stage set out the Government's attitude to men and women being put into full time hospital care settings in a manner that is not conducive to their dignity or, at least, does not honour their wishes.

Senator John Gilroy: I wish to share time with Senator Mary Moran.

An Leas-Cathaoirleach: Is that agreed? Agreed.

Senator John Gilroy: I welcome the Minister of State, Deputy Lynch, to the Chamber. It is great to see my constituency and party colleague, friend and neighbour in the House. We could perhaps sort out this matter over a cup of coffee in Blackpool shopping centre.

I welcome the opportunity to discuss the fair deal scheme, which since its introduction in 2009 has been portrayed and widely viewed as the solution to an ongoing problem of securing certainty of delivery of services in residential care for older people. It was warmly welcomed at the time by all sides that the HSE would provide a level of funding for the scheme each year, which it was hoped would be sufficient to support all those wishing to avail of it. However, reports in the media, which I accept the Minister has addressed today, that the fair deal has run out of money, while disturbing, are not entirely unpredictable. The crisis in the fair deal scheme represents the latest in a series of crises that has bedevilled the HSE since its inception. At the core of the problem is a contradictory set of public policy assumptions. Policy decisions on health care provision are often contradictory and seldom coherent.

Deliberate political policy decision making has led us to where we are now. We have a highly disordered health service, not because the previous Health Minister's policies have failed but because they have succeeded, leaving us with the mess we are now in. The model favoured by the previous Government was flawed in that no serious attempt was made to properly restructure the service when the HSE was established. Policy goals were not identified nor were they communicated within the structure or to the general public. We see examples of this throughout the entire service. For example, in mental health services, there is a contradiction in the Department's stated goal to deliver services in the community. One objective, outlined in a plan drawn

[Senator John Gilroy.]

up 27 years ago, Planning for the Future, has still not been implemented. We can see coherent policy outcomes emerging in the cancer services area, but this seems to be the exception more than the rule. While in the 1980s and 1990s we might have been able to blame a lack of resources for this failure, this argument fails when we consider the economic success enjoyed by this country in the early years of this decade.

Services for older people are a good example of policy confusion. We often hear the population of older people referred to as a single homogenous group. However, we know, or at least we should know, that older people bring with them all the advantages and disadvantages built up over the course of their lives. Therefore, a one size fits all solution is not appropriate. Older people are often seen as a group to whom things need to be done. Again, there is a failure to see the diversity in value that older people represent. It is unfortunate that in some public comment there appears to be the underlying thought that older people are a burden. We need to consider our own views of older people and must come to recognise older people as valuable and a valued part of our community.

My colleague, Senator John Kelly, reminded me yesterday evening that many older people in residential care would prefer not to be there. The stated objective of the HSE service plan is to maintain older people in their homes for as long as possible. However, the incoherence at the heart of health policy makes this almost impossible to achieve. Funding arrangements for social care in Ireland have the effect of skewing demand for long term care in the direction of the residential option. The services available to older people are dispersed across a wide range of often unlinked schemes, including the fair deal scheme, home care packages, home help services, day care services, residential services and carers, a group much under-appreciated by the system. It might be thought odd to talk about restructuring the services at a time when the country is facing economic challenges but a coherent and new policy direction cannot just deliver a better service for our older people but would be economically more efficient.

As Labour Party spokesperson on health, I have much more to say on this issue but, perhaps, not today. The Seanad has an important role to play in discussing medium to long term policy and health policy is a good place to start. I have only barely scratched the surface of this issue and this House could usefully devote more time to discuss it.

Senator Mary Moran: I, too, welcome the Minister of State, Deputy Lynch, to the Chamber. When introduced, the nursing home support scheme was seen as a solution to a long term problem and an ongoing concern for older people and their families. The former Minister for Health and Children, Ms Harney, stated that it was designed to be accessible, affordable and anxiety free. However, less than two years later the fair deal scheme is in crisis. Undoubtedly, the scheme serves an important function. Under the fair deal scheme, there are currently 11,836 people in receipt of State support towards the cost of care in private nursing homes while a further 4,225 people remain on subvention or in contract beds. Approximately 6,400 people are in public beds in public nursing homes, bringing the total number of people in receipt of support to more than 22,000.

The budget for the scheme is more than €1 billion. As Senator Colm Burke stated earlier, currently 11% of our population are aged over 65 years. We need to plan ahead for the next twenty years when the situation will be grossly different. One can only imagine the worry experienced by older people and their families when they heard the fair deal scheme might be in trouble. This situation must be clarified quickly. Reports in the media state that funding for the scheme has run out. However, the HSE has confirmed that nothing will change for those people already funded. New applications will continue to be accepted and processed. However,

alarmingly, the HSE has added that approval for new applicants is subject to the availability of funding, a constant cause for concern.

Older people are also concerned — I have received several queries in this regard in recent days — that if the funding is not available, the scheme will be closed to new applicants? Will we be back to the days of waiting lists? Are there other options available to older people and their families? While there are, none are appropriate. Senator Quinn referred to assisted living. There is an excellent assisted living system in Dundalk called the Great Northern Haven. It comprises 16 houses and is a collaboration between Louth County Council, Dundalk town council, the HSE north-east and Dundalk Institute of Technology. It utilises cutting edge technologies to enable older people to live independently for longer, which is the aim of all of us.

Older people have asked me if they will have to wait for a bed to become available or if they will be left with the stark choice of having to pay the full cost of private nursing home care, at a cost of more than €1,200 per week in some cases, which is clearly not affordable for the vast majority of our citizens.

There is also a concern that many of our older people will end up inappropriately placed in hospital, which is unacceptable and also results in further pressure being placed on the already stretched health system.

At this point, I refer to a case with which I am dealing where an elderly lady, despite trying to live independently for as long as possible, has now reconciled herself to the fact that she requires nursing home care. It is traumatic for any family to accept that the time has come to place a loved one in a nursing home. This lady applied under the fair deal scheme last September, went through the rigorous application process and was approved in February of this year, when she was told she had ten days to find a nursing home.

We have all been in such situations. As a parent, I tried recently to get an appointment with a paediatrician for one of my children and was told that, whether under the public or private system, my child would not see a paediatrician until the middle of September, which I find totally unacceptable. In this case, the lady was told she had ten days to find a nursing home. When one makes the decision, one must look into it and make sure the nursing home is suitable for the person and suitable in terms of transport to visit a loved one. At the beginning of May, this lady's family finally found a nursing home which was suitable for her and for all the family. The nursing home staff came out and assessed the lady, and everybody was perfectly happy with the situation. The family went back to the HSE to be told they had gone over the ten days, had lost their place in the queue and that the process had to start again. In the meanwhile, the decision was taken not to process any more applications so this lady, like so many others, is left in limbo. This issue needs to be urgently addressed.

While there is plenty more I would like to say, I am conscious of the time constraints. I thank the Minister of State for coming to the House and wish her continued success in her ministerial role.

Senator Marc MacSharry: This is my first opportunity to welcome the Minister of State, Deputy Kathleen Lynch, to the House. I congratulate her on her appointment. If she has anything to do with reforming this issue, as Senator White and others have said, the future is certainly bright.

I am glad to have the opportunity to make certain points and I am conscious that others have greater expertise than I in the health area, including Senator Crown, and I look forward to hearing suggestions from one so knowledgeable of the health system. I can only speak as

[Senator Marc MacSharry.]

one with a business background and from personal experience, like other speakers, and I agree with much of what I have heard.

I will apply a pure business model to this case. Who projected a figure of €1 billion for the year and who is responsible when that €1 billion has run out after five months? Who is responsible for €100 million being misappropriated? Why is it taking so long for that review or examination to take place? When will we have the answers? If it was a commercial business, the answer would be instantaneous. If it was a business plan, it would be implemented the following day once it was decided. That is how these things are done.

I fundamentally disagree with the Health Act 2004 and spoke against it when I was on the other side of the House in regard to the abolition of the health boards. What was removed at that time was accountability. Now, when one writes to the HSE or to the Minister's office, although I am sure the current Minister will seek to change this, one receives a set-piece reply, "As you know, under the Health Act 2004, this is now an issue for the chief executive of the HSE and I have asked him to respond to you directly." That is what we get. At some stage down the line, when the response has been laundered through whatever public relations agency, that response may come back to the person asking the question.

This is the legacy of the centralisation of the health service through the HSE. It has slowed down and distorted the flow of information and it has not served the people well. I must qualify these comments by noting that there are many people working extremely hard and well in the HSE in caring for people in all of the various disciplines and in an administrative capacity. As a collective, however, it has not worked. The one thing I commend the new Government for doing is for acting to change it. I welcome the Minister, Deputy Reilly's initial intentions whereby he put an interim board in place but, that said, we have not seen much progress to date. What we have seen is that €100 million has gone missing, additional moneys have been made available for this scheme to continue in the short term and there is a huge question over who originally made the projections for €1 billion to cover a year when it has only covered five months. While there is now an additional €62 million to keep the scheme going for a period, what happens when that money runs out?

Notwithstanding the good suggestions regarding care of the elderly, the demographics are changing, we have an aging population and the challenges will be much greater in coming years than at present. I agree with organisations such as the housing associations in their assessments. To take the case of the NHS in Britain, studies across the west midlands, east midlands and the east of England generally demonstrate the cost savings made while increasing the quality of care and the contentment of patients. This is significant and, notwithstanding resource challenges, we must consider these kinds of initiatives.

The questions are clear. Who controls the money? One of the first things I would like the Government to do is to take the budget back under the Department of Health's control, so the Cabinet, which is the representative of the people and the Executive charged with running the State, has control. At present, €14.3 billion, or more than 50% of the tax take for this year, is in the control of a third party organisation which is still not in a position, several weeks on from 18 May when this issue broke, to tell us where that €100 million went. This is the people's money. Some €14.3 billion is better placed in the hands of the Cabinet of the day, which has direct accountability to the people and these Houses.

The challenges are immense. I know the Minister of State, Deputy Lynch, will take these questions on board. I know also that if she has anything to do with it, the future is bright on this issue. Nonetheless, the misappropriation of funds is of huge concern. As Senator Gilroy said, we probably need a weekly debate on some aspects of health in this House because there

are so many important issues. I look forward to hearing those more qualified in health, such as Senator Crown and others, deliver their suggestions. From a pure business perspective, I am afraid that as a collective, notwithstanding the great work of the individuals, the HSE is a disaster.

Senator Paul Bradford: As some of the my colleagues from the previous Seanad will know, this area has been one of grave concern to me in recent years and I have become something of a long-playing record on the matter of care for the elderly. I have no difficulty with the concept of the fair deal scheme and, in so far as it can be used, I welcome it. However, the broader issue of care of the elderly in all its complexities is something we need to debate much more fully in this House. As I have said before and sadly must repeat, if our only political aspiration for the elderly is that we will be in a position to provide them with a nursing home bed when they reach an appropriate age, that is a pathetic aspiration for the men and women who built up this country.

I am interested in the figures we are debating today, in particular the missing €1 billion and the figure of €100 million. What would €100 million do? Roughly, it would provide carer's allowance or benefit for 10,000 carers. Although I admit the means test for carer's allowance has become a little more relaxed, it is still very restrictive. I sought, and made some degree of progress with the late Minister, Mr. Séamus Brennan, that the means test would be abandoned for carer's allowance and that there would be a test for a person providing full-time care and a test for a person in need of full-time care.

I ask my colleagues to reflect on how €100 million could be used today, next week or next month. It would more or less provide carer's allowance for 10,000 carers, which would be money very well spent. I said previously that we should reflect on the possibility of introducing a constitutional amendment to protect the elderly. I am an advocate of the constitutional amendment to protect the rights of children here, but the elderly also need a higher degree of protection than they have currently. If such a constitutional amendment was passed, the courts would be open on an almost 24-7 basis because our elderly do not currently receive their full entitlements.

We have gone down the road of what I call the nursing home mentality, the mentality of Shady Pines. Nursing homes have a place and a role to play, but the majority of our elderly wish to remain in their own homes and communities with their families. That should be aspiration number one. Our first aspiration should not be to provide 10,000 extra nursing home beds, but to facilitate people to remain in their communities. Will the Minister of State give serious consideration to broadening the carer's allowance and abandoning the means test? When she examines the figures, she will see they are not as draconian or shocking as she would imagine and that the provision of a carer's allowance for every full-time carer would only amount to a modest sum of money. I urge her to take this proposal on board.

The home care packages, which have worked reasonably well, were introduced by the former Minister for Health and Children, Mary Harney. Those packages can be built upon. They have played a significant role in allowing carers and people requiring care to have a degree of discretion in order that people are not simply shuttled off to permanent beds in a nursing home. The respite grants have also played a significant role in allowing families have some degree of breathing space. I welcome the attendance of the Minister of State here and appreciate that the fair deal nursing home scheme must be properly funded. It is a good scheme and while we have had difficulties with regard to its workings and the legalities, those issues are a bit of a moving feast. The current crisis, if it does nothing else but cause us to debate further our ambitions for the elderly, will be worthwhile. "Fair deal" is a nice phrase, but the fair deal

[Senator Paul Bradford.]

the elderly really require is discretion, hope and a better aspiration than simply a nursing home bed.

I urge the Minister of State to take on the bigger picture, not just the fair deal. I am glad she has been given responsibility for the elderly and am sure she appreciates that our aspiration for the elderly must be broad. A jigsaw of solutions is required, but practical solutions such as more home care packages, greater access to a carer's allowance, more district nursing hours and more respite grants will cost only a fraction of what the fair deal costs. Those changes would transform the lives of thousands of our elderly. I hope the Minister of State considers this broad range of solutions. We must also tackle the funding crisis in the fair deal, the anomalies in the system and the anomalies with the 5% clawback.

I hope this is the beginning of an ongoing debate. Our starting point must be to remember that one size does not fit all. We need a multiplicity of solutions, but our aspiration must be to allow the majority to remain where they wish to remain, in their homes supported by their families and communities.

An Leas-Chathaoirleach: I remind Senators that some may not be able to contribute because, according to the Order of Business, we must allow the Minister of State to give her response not later than 1.20 p.m.

Senator John Crown: I will share my time with Senator Cullinane.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator John Crown: I welcome the Minister of State. I have a major interest in health policy and hope to contribute to this debate through my membership of this House and, I hope, the health committee. I echo the calls made by some of my colleagues, and outside the House by Professor Des Fitzgerald, for a fundamental long-term strategic evaluation of how we will handle all the health and social issues which occur as a result of an ageing population. It must be remembered that in projecting forward over the years, we have often got it wrong, not because of any malfeasance or incompetence but because things change. I think of the major investment which was appropriately made at the time in fever hospitals, when we no longer have people requiring quarantine for fevers, or in large tuberculosis institutions which, thankfully, we no longer need.

There will be equally dramatic changes in the requirements for certain surgical and other procedures in the years to come as changes occur in medicine and in the delivery of health care. This will also apply to the whole question of ageing because, with current legislation in respect of retirement care, old folks homes and all the related procedures in the health system, there has been a presumption of enfeeblement. The presumption is that people in their 50s, 60s and early 70s will lose their good health and become more dependent. Obviously, this occurs as people age, but the change in our demographics and the change in our ratio of workers to pensioners is not only due to changes in the birth rate or longevity. What is happening is that we are arbitrarily taking a group of healthy people and enforcing retirement on them. There is a real need to change this.

I saw this need in the case of one of my esteemed colleagues, the professor of surgery in our institution until a few years ago. One day he was doing four or five breast cancer operations a week, perhaps being called into the hospital in the middle of the night to deal with emergency surgery and running an avid research programme, but suddenly, on his 65th birthday, he was deemed to be an old person who could no longer be an active contributor to our health system. I put this in contrast with a visit I made to the Dana-Farber Harvard Cancer Center last year

where I had the great pleasure of temporarily occupying the office of a Nobel prize winner who had been the president of that institution and who had finally retired the month before. His office was made available to the Irish visitors to use as a base for making phone calls and checking e-mails etc. This man had retired from this institution, where he was still writing scientific papers, at the age of 89.

There are many people who will be enfeebled in their 40s, 50s, 60s and 70s who will need the safety net that the option for retirement, either on health or age grounds, will afford them. It is essential, however, if we are to consider how we can reconfigure pension payments for those who receive pensions and those who wish to retire versus those who wish to remain active, that, as part of the process of an older age policy, we readdress the question of mandatory retirement. I urge the Minister of State and the Leader to bring this matter to the attention of the Government because it is something that will require careful scrutiny in the years to come.

Senator David Cullinane: I welcome the Minister of State to the House to discuss this important issue. I agree with Senator MacSharry on the lack of accountability in the HSE. Over recent years we have all been subjected by the previous Minister for Health and Children to the best impersonation of Pontius Pilate I have ever seen in my lifetime as a politician. She took no responsibility for any of the scandals that surfaced in respect of the health service. We all know, as I know from my time as a local councillor, that when we brought something to the attention of the Minister, we were referred to the HSE or the Department. The issue was passed around and it was difficult to get any answers to questions posed. The same is true for questions raised by Deputies.

With regard to the fair deal scheme, the Minister stated recently that there was tremendous confusion between the HSE and his Department. Has that confusion been addressed and sorted out to the Minister's satisfaction? He spoke of some strange figures coming through from the various parts of the HSE. He spoke of confused messages and stated that money which belonged to one subhead had been spent on others. We are talking here about tens of millions of euro. How could this happen? That it could happen flags the lack of accountability in the HSE.

I would like to touch on two other issues. It is very important that people are cared for in their homes for as long as possible. The Minister of State will be aware, as her party is committed to this, of the need for the publication of the national strategy for carers which will deal with the needs of carers, those they care for and home helps. A national strategy for carers must be published that will deal with the needs of carers and of those in need of care. I agree with Senator Bradford who made the point that home help care needs to be built up. In my county, Waterford, many people have seen their home help hours cut. We cannot have a situation where, yet again, the vulnerable are the victims of cutbacks because of the IMF deal or the austerity measures being put in place. We have to protect the weak and vulnerable, and the elderly, which means providing more home helps, and ensuring that carers and those they look after and people in nursing homes get the very best treatment possible. That is why it is important that the fair deal scheme is properly resourced. What we need is universal provision of State care for the elderly.

An Leas-Chathaoirleach: We have almost reached the deadline but I shall allow Senator Kelly one minute.

Senator John Kelly: I will be brief. I welcome the Minister of State, my party colleague, to the House.

[Senator John Kelly.]

In recent years I often referred to the fair deal scheme as an “unfair” deal. I agree with every statement made in the House today by all Members. We represent every sector of society and every statement should be taken on board and another look taken at how we deliver nursing home care to the elderly and deal with that group in general.

It is absolutely necessary that we evaluate the situation of elderly people who are in nursing homes to see what we can do for them and whether we should prepare to accommodate them in the community. That is where they want to be and home care packages were devised to provide that for them although funds were misappropriated within many health boards or health service areas and spent on other items. In County Roscommon most people died before their number came up, so to speak, for getting any kind of home care package money. One hour of home help per day will not entice a family to keep an elderly person at home. In County Roscommon we now talk about home help “minutes”, which is absolutely laughable.

There is another unfair issue in the unfair deal. Under the old subvention system those farmers whose parents went into a nursing home did not have their farms assessed when the elderly person went into the home. Most cases in my part of the country applied to very small farmers, most of whom were in receipt of farm assistance or social welfare, or to social welfare recipients whose parents went into a nursing home without their houses being assessed. It was a big mistake to effectively privatise our public nursing homes, bringing them under the remit of what I refer to as the unfair deal.

When Age Action Ireland reports that elderly people would much prefer to be abused at home than be abused in a nursing home that is quite some choice a person has under a so-called fair deal scheme. That must be addressed.

An Leas-Chathaoirleach: I apologise to Senators Conway and Leyden. Unfortunately, their time is out.

Senator Martin Conway: I appreciate that. As the spokesperson for Fine Gael on disability and inequality, I wish to make one quick point. I have spoken in the House about the necessity to have a national debate on issues concerning elderly people. We should consider establishing a commission on the status of older people that would incorporate the 20 year strategy suggested by Senator Burke and other speakers. Perhaps the Minister of State might consider that for the future.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank everybody who spoke. Every contribution was extremely worthwhile, far-ranging and positive. There is one point I hear, not only in this Chamber but at any debate concerning the population of Ireland who happen to be over a certain age. People speak about these people as if they were an elusive group which is ring-fenced and protected. We have devised a positive aging strategy which will be published later this year but when we speak of planning for the future we speak of our own future. This is not an exclusive group; our future is in question. When we look at how we treat people who reach older age we should be very conscious that we are planning for ourselves. We will be very lucky to get there because many people do not reach their old age, something we should be conscious of, and examine. Those preparing the strategy on positive aging will listen very clearly to the voices of the client group we hope to serve in the future. That aspect has been missing from many debates here — listening to the people involved and asking them what they want.

When I was a member of the original health board I remember reading reports which told us very clearly that no matter what stage people are at in life they want to live in their own

homes and communities. Surely we should consider having that type of support mechanism to ensure people can continue to live on in their own homes and communities with people they know and trust.

We must be extraordinarily careful in case we frighten people. When we talk about abuse one hopes there will be enough of an inspection regime in place to ensure people no longer have to fear this if they must go into institutional care. We have had a love affair with institutions in this country and those we have loved include schools, industrial homes, Magdalene laundries and care homes. There is an amazing point there. I am very conflicted on this issue for the simple reason that I now spend half my week trying to get back into the community people who have spent an enormous length of time in institutions, such as those who have mental health issues. This applies also to those with a disability. We are seriously bringing into the community people who have spent their lives living with intellectual or physical disabilities, whose homes are now in institutions. On the other hand, we seem to be in a headlong rush to put into institutions people who have reached a certain age. We really need to get our heads around that. What are we doing about it?

We have an enormous budget. I could state that €1.01 billion is set aside for institutions for people who become older because that is what we are discussing. On the other hand one could talk about €200 million odd in terms of community care for people in their later years. Look, for example, at what we are spending on disability. Let us suppose we were to combine budgets and talk about care for people who need care rather than separate out funds according to disciplines or groups, such as people with mental health issues. Why are we not talking about people who need care, whether the care in question refers to mental health issues or disability, or care for people who are older? We should combine the budgets and look at this in a sensible and practical way. The care needed in the community by somebody with a disability is not all that different from that needed by an older person in the community. It is all support and care. Perhaps sometimes it is a matter of technology, at other times of professional care, or care such as meals on wheels, home helps or provision of a carer. Think of what a personal assistant does for a person with a disability who needs such care. Is it all that different from the care needed by an elderly person? We must begin to look at this issue and start to talk about care in the community.

I am conscious that I have not addressed the points raised but will return to them. However, this conversation is very important. We need to get our heads around what the conversation must entail. We have money — we are not completely broke or penniless. We do not have additional money — and will have less — but if we do this properly we can provide better and more appropriate care in more appropriate settings for people who need it. I absolutely believe that. In mental health, for example, the bulk of our staff is found in institutions. We have least staff where they are most needed — in communities. We must switch this round entirely and perhaps we should look at it in terms of everyone else. Why do we not listen to those who need our care or who have reached a certain age? We should listen to ourselves occasionally when we ask where we would like to be. Would we prefer to be maintained at home with a little more help? None of us wants to end up in any institution among strangers, no matter how good or kind they are.

On the €100,000 missing from the subhead, it was not misappropriated. It was spent on therapies in that subhead, on people in nursing homes, although it should not have been spent on those particular therapies and drugs. All of those therapies and drugs were provided for under a different subhead. Again it comes back to how we do this and how we will care for people. Our love affair with institutions must stop.

[Deputy Kathleen Lynch.]

The Government is committed to keeping older people in their own homes for as long as possible. There is, however, a process where we arrive at the point where that is no longer feasible, and we must accept that there is a place for long-stay care appropriate to needs. We must ensure quality long-term residential care is available. We must also remember less than 5% of older people are in long-term nursing home care at present. The vast majority are at home in their communities, where they want to be.

We speak about older people as if they were a ring-fenced group. As an ageing population, this will present challenges in the years ahead. I look forward to working with all stakeholders to bring about real change and security. If we could bottle that sense of security and give it to those who are getting older, it would cause a fundamental change in their mental health because insecurity about what will happen in their later years contributes to poor mental and physical health.

This conversation has been interesting because I do not see anyone disagreeing about where we should be going. We might disagree about how we get there but where are going, the journey can be as interesting as the destination.

Sitting suspended at 1.35 p.m. and resumed at 2.30 p.m.

Finance (No. 2) Bill 2011 [Certified Money Bill]: Committee and Remaining Stages

An Cathaoirleach: I welcome the Minister of State at the Department of Finance to the House.

NEW SECTION

Senator Thomas Byrne: I move recommendation No. 1:

In page 3, before section 1, to insert the following new section:

“1.—The Minister for Finance shall within two months from the passing of this Act, and every two months thereafter, prepare and lay before Dáil Éireann a report setting out the number of jobs created as a result of each taxation measure provided for by this Act and the number of jobs created as a result of the Levy on Pensions Schemes provided for in *section 4* of this Act.”.

This is a very important provision. Some of my colleagues have said it might be a bit harsh to look for a report every two months, but I think some form of reporting would be necessary. What is important is that the figures we got today continue into the summer and into the autumn. If the Government is able to claim some credit for the initiative it has taken, I and my colleagues will be happy to give it credit. It is important the Government focuses on jobs. In the interests of transparency and to show it is not all about a press conference concerning what has been done in the first 100 days of Government, it is important there is regular reporting to the Dáil and Seanad on the success of the Bill.

Significant tax breaks are being given to companies, those involved in research and development, and where VAT on business up to a value of €1 billion is concerned while the ordinary working person is being hammered in respect of pensions. The purpose of the recommendation is to ensure that what comes out in the wash is that more people are working as a result of these measures, that we get value for money for the significant tax breaks we are giving business and that the measures are worth it.

It is important the tourism industry, hotels and restaurants get tax breaks. We have no provisions that ensure they must employ people as a result, but we are hoping and expecting they will do so. There is no provision either to force them to give reductions but let us hope prices fall, which makes the sector more competitive. Work has happened on that already.

We are giving significant tax breaks to the newspaper industry. That industry is a significant employer, but it is also an industry controlled by multinationals. There are few small businesses now involved in the newspaper industry and most local newspapers are nationally or internationally owned. We are giving them a significant tax break with no comeback as to whether the price of the newspaper will be reduced to make it more affordable to read or whether they will employ more people. We have seen significant redundancies among journalists, even those covering the Oireachtas, over recent months. Some people whom we know well have been made redundant. We see that happening in the newspaper industry. Where is the job strategy in terms of the tax breaks to that industry? What I propose in my recommendation is that evidence would be given to show what is working in respect of each taxation measure proposed by the Bill. It is critical to allow the people to judge the Government on what it has actually done and I will be asking for some measures in relation to my recommendation. I understand that looking for the figures every two months puts a great deal of work on the Department, but some level of reporting is required.

Senator Darragh O'Brien: We had a good discussion yesterday and I thank the Minister of State for returning to the House. As I said on behalf of our group, there are many measures in the Finance (No. 2) Bill 2011 that we support. Senator Byrne has outlined a mechanism whereby Government must report back more regularly. As Senator Byrne intimated, it may be onerous to report on it every two months but I do not think it is any harm in the interests of transparency. We all agree on that. The Government has outlined that on a jobs initiative such as this, it will allow a regular report, but I think it should be to both Houses as opposed to a press conference. Earlier today, when discussing another item, we stressed the importance of announcements being made in the Oireachtas, be it in the Dáil or Seanad, instead of at a press conference. We want to encourage the creation of new jobs and jobs growth. There are measures in the initiative that we hope will lead to that. I do not believe the Government has anything to fear — we would be flexible on the two month period — about tying into the Bill the requirement to give regular updates to the Oireachtas on how the measures are performing in different areas. That is crucial.

Some of our other recommendations have been ruled out of order. Will the Minister of State comment on how the Government proposes to review the approved retirement fund aspect? I know the Minister for Finance, Deputy Michael Noonan, indicated he would look at it if he felt that approved retirement funds were not sufficiently taxed already. I put it to the Minister that approved retirement funds are taxed on the basis of a 5% withdrawal. Should someone withdraw no money from the fund, the person is taxed on the basis of 5% of drawings and on the marginal rate of tax for the individual concerned. I made our case yesterday and I am not going to go over all the ground on the basis that we fundamentally disagree on the raid of private pension funds. I suggested that if the Government must levy, it should levy on tax free lump sums across the board, from public and private pensions, PAYE, self-employed proprietary directors. The Government decided not to do that, which is what the Government gets to decide on.

This recommendation tabled by Senator Byrne, if accepted, would show that the Government is willing to come back and report to the Oireachtas on the progress of the jobs initiative. That is the reason our group supports this recommendation.

An Cathaoirleach: Does the Deputy wish to come in again?

Senator Thomas Byrne: When I spoke initially, I did not have to hand the tax breaks the Bill will give. It is important to note that we are giving tax breaks to big business in the interests of creating employment. That is what makes this recommendation so important. The air travel tax break is worth €315 million, the reduction in VAT is worth €880 million, which is almost a €1 billion in tax relief to business

An Cathaoirleach: The VAT reduction is in section 3. We are on section 1.

Senator Thomas Byrne: The recommendation is seeking reports on the number of jobs created as a result of each taxation measure.

Minister of State at the Department of Finance (Deputy Brian Hayes): Yes.

Senator Thomas Byrne: I am just going through the taxation measures. The amendment was carefully drafted to allow a wide-ranging discussion in the expectation that the Bill would be guillotined. I think that is the idea. I hope the Cathaoirleach will bear with me.

Deputy Brian Hayes: Ten out of ten.

Senator Darragh O'Brien: We used to be on the other side of the fence.

Senator Thomas Byrne: I have been reading what the members of the Government used to do when they were in Opposition. I will see how it works. I am not doing too well, judging by the number of amendments the Cathaoirleach has ruled out of order. I hope this amendment will do the job. We are giving €1 billion to business in the form of a VAT reduction. As I keep saying, the newspaper industry is included in the reduction. It is a massive amount of taxpayers' money at a time when we do not have much tax coming in. We are having to introduce a pension levy to fund this initiative. The next Bill will provide for a €500 million tax break on employers' PRSI and an additional €41 million of expenditure on activation measures. The amount of additional capital spending will be just €13 million. I hope that is not all tied up by foreign companies. There is not much we can do about that, but it would annoy many people.

I would like to make an important point about the pension levy, which will raise €1.88 billion. At least €115 million more will be raised through the levy than will be spent on employment measures. I have gone through the various tax breaks we are providing. I understand the justification for many of them, including the reduction in the air travel tax and in the rate of VAT, but only if it is clear where the jobs are being created as a result. It is important we receive regular reports every three months or six months. That is more important than keeping these measures going for a few years. That important point needs to be addressed.

The Government is celebrating, but I am glad it is taking this issue seriously. By introducing this Bill, it is putting jobs first on its agenda. It is doing a good job of packaging stuff we did previously, such as activation measures. We spent more on the summer works programme last year and the year before than the Government is spending this year. The Government has pulled off a public relations coup by packaging it as a jobs initiative or budget. I congratulate it on what is not much more than a public relations coup. On capital spending, we managed to fix many schools last year. We got a great deal of work done in my area of Meath. We are raising taxes and providing tax breaks. I know it is not in this Bill, but the reduction in employers' PRSI is, in effect, a means of asking the taxpayer to pay for the increase in the minimum wage. We are passing the burden from the private sector to the general taxpayer.

That is what we are doing in the interests of creating employment. I have illustrated why this amendment is necessary.

Deputy Brian Hayes: I would like to be helpful to colleagues. My understanding is that a number of amendments were ruled out of order. I fully respect the views of the House on that issue. With respect to Senator Byrne, rather than having a single discussion on an omnibus amendment, it might well be more beneficial to discuss all the amendments, including those that cannot be proposed. If we raise and deal with all the issues as part of a substantive debate, it will be fair to those colleagues who have tabled amendments.

Senator Thomas Byrne: The amendment has a substantive purpose.

Deputy Brian Hayes: I know.

Senator Thomas Byrne: The Minister of State is not the Cathaoirleach.

An Cathaoirleach: We can deal with the various issues as they arise during the debates on the sections.

Deputy Brian Hayes: We can turn them into questions on the sections. I am not trying to be difficult. We are not celebrating. No one is celebrating today. People need to stop being so hurt about all this. It is beyond me how anyone can suggest that any group of politicians in this country could be celebrating at a time when 14.5% of the people are out of work.

Senator Thomas Byrne: The Minister of State——

Deputy Brian Hayes: I did not interrupt the Senator. We really have to stop this kind of silly Punch and Judy performance. We are here to do a serious task. We should deal with it together in a comprehensive way. I hasten to add that no one on this side is celebrating 100 days of anything. We have to be honest about that. Yesterday, I described this entire initiative as a modest proposal. No one is making extravagant claims one way or the other. It is a fundamental confidence-building measure as we try to reboot the domestic economy. I emphasise that these measures are being pursued as a means of generally trying to improve employment opportunities for people in the domestic economy. There is a fair wind for them. There is fundamental disagreement with regard to some aspects of the levy. Colleagues spoke about that yesterday and we can deal with that.

Senator Byrne's specific amendment on the question of reports is in order. I congratulate him on that. I will go through the speaking note before we discuss it back and forth. The suggestion as set out in the amendment is not possible owing to the limitations in the data available to the Department of Finance. The Central Statistics Office produces employment data four times a year in the quarterly national household survey. While this data set provides employment information on a broad sectoral basis, it is only available on a net basis. It does not provide the information on job creation and job destruction that makes up the net figure. While a new job data set produced by the CSO will allow a distinction to be made in the future, it will do so only on an annual basis and with a significant lag. It does not provide the information on a current basis, such as every month or two months. There is a lag. Therefore, it would be difficult to capture what is required in a report every two months. Data are only available up to 2009.

The argument the Government is making in this regard is that it is not possible to concede to this proposal in the absence of current information. One might have a point if one were to say there is a need to improve the gathering of information. We can all accept that. However,

[Deputy Brian Hayes.]

it is just not possible to include this provision in the legislation when the necessary information is not available. We cannot escape the fact that the resources needed to fund large-scale policy initiatives that would help to generate economic activity are not available at present. The Minister for Finance emphasised that when he launched the jobs initiative.

I remind Senator Byrne that the jobs initiative was launched in the Oireachtas. It was not done by means of a press conference. It was launched in Dáil Éireann, as was the bank restructuring plan. The Minister, Deputy Noonan, announced that plan in the Dáil. I think that is a welcome departure from the approach that was adopted over the last decade. During the lifetime of the previous Administration, the Dáil and the Seanad were routinely put to one side so that announcements could be made in the Government press centre. The Government is acutely aware of the need to make major policy announcements in the Oireachtas. It is not a question of making 100-day announcements here, there and everywhere.

Senator Thomas Byrne: The Minister of State should say that to the Minister, Deputy Reilly. Perhaps he will make tomorrow's major health statement in the Oireachtas.

An Cathaoirleach: The Minister of State, without interruption.

Deputy Brian Hayes: I think it is taking the fellows opposite a while to realise where they are. This is Seanad Éireann.

Senator Darragh O'Brien: I realise it well.

Deputy Brian Hayes: They will be here for a long number of years.

Senator Thomas Byrne: The Minister of State was here at one stage.

Deputy Brian Hayes: As someone who has been in the Oireachtas for 14 years, I can assure them it is easier to do it this way.

An Cathaoirleach: On the amendment, please.

Deputy Brian Hayes: We are very cognisant of the importance of the Seanad and the Dáil. That is why major initiatives are announced in this place and the other place.

Senator Thomas Byrne: If certain areas are to be targeted for employment growth, there should be some standard by which that growth can be measured. It is shocking that the Department is saying that what the Government is doing cannot be measured. We are being asked to sanction almost €1.8 billion in tax breaks with the aim of creating jobs in a small number of sectors. I am not criticising the overall approach, but I think it should be measured carefully and regularly. What would happen in two years' time if, having spent so much tax money on this approach, it transpired that it was not working? We would have a problem. If it could be measured, at least we would be able to tell whether something was being achieved. In such circumstances, we could consider expanding it to other sectors. We would support that if it was shown to be working. I apologise if I offended the Minister of State when I spoke about celebrating. At a press conference later today, the Taoiseach and the Tánaiste will boast that this Bill has been passed.

An Cathaoirleach: We are moving away from the scope of the amendment.

Senator Thomas Byrne: No, we are not. This is very much within the scope of the Bill.

An Cathaoirleach: I referred to the scope of the amendment. We are on the amendment now.

Senator Thomas Byrne: This is very much within the scope of the amendment.

Senator Darragh O'Brien: In fairness, Senator Byrne is responding to a comment made by the Minister of State.

Senator Thomas Byrne: I said it would be far better if the press conferences were held later in the year. As the Minister of State said, we all hope this works. I hope it can be shown later in the year that it is working. Figures that were released today show that the official seasonally adjusted unemployment rate has decreased. Some analysts have said the reasons for that may not be as good as they appear. I think it is good news and I hope it continues. If it does, I hope we can give some of the credit for that to this Bill. If we are to spend billions in taxpayers' money, we need to be able to measure it and show what it is being used for. The Government needs to be able to show that it is working. I do not accept that the Department cannot get this information.

Senator Darragh O'Brien: I agree with the main point made by Senator Byrne, which is that this needs to be tracked. The Minister of State cited a response from the Department, suggesting it would be difficult to do so. We are able to get regular updates on progress on the Croke Park agreement, a matter which is important and which we discussed this morning. It seems in that instance when we are looking at savings within the public sector from a deal that was widely criticised outside the House, I did not share in that criticism, we are able to get regular updates. The Minister of State might understand the inference of my question. Why can we not get regular updates? It need not be every two months.

It is crucially important because we are looking not at a jobs initiative across the entire economic spectrum in the country but at specific sectoral areas. In those sectoral areas, the Department should be able to track on a biannual basis the progress being made within these sectors and perhaps give a commitment that this would be something that should be looked at because we need the information.

One of the valid criticisms of previous Governments is that things happened and were not realised until it was too late. I would hate the Government to spend over €1.5 billion of taxpayers' money on jobs initiatives that two years down the line were not working. I do not accept the view from the Department that this cannot be tracked. I am not saying that it must be tracked down to the single job, but we should be able to track the process within sectors.

If we cannot do it, how will the Department of Finance, along with the Department of Transport, Tourism and Sport, be able to track the airlines on the new routes and new passengers that are coming in and whether they are worthy of the abolition of the travel tax? I assume that is one area that the Department will be able to track.

If one takes that piece out of it, we would not need to track too much else. On the reduction in VAT rates in those sectors, surely the Department of Finance with its collective experience should be able to track, in the case of retail sales and income in the tourism sector, the impact of the reduction in VAT which we welcome.

I ask the Department to examine this issue. This is important on the basis that the Government would see that its initiative is working. Perhaps it will come to a stage in a year's time where the Minister finds that it is not working as well as he wished in those sectors and maybe we should move towards other sectors.

For example, there are announcements on the research and development sector which are also welcome. Ten years ago there was no research and development sector to speak of in the

[Senator Darragh O'Brien.]

economy but now Ireland is one of the world leaders in this area. That is tracked within the Department.

From my experience as a former member of the Committee of Public Accounts in my previous life in the Dáil, when one seeks information sometimes it is like pulling teeth but one will get it in the end. It is important. What will happen otherwise? Will the Minister, Deputy Noonan, wait for four years when he states he will stand down the levy to pay for the jobs initiative to find out whether it has worked or not? I hope it works but we need regular reviews on this. Deputy Brian Hayes needs to insist on this, with the power that he has as Minister of State at the Department of Finance, as does his colleague, the Minister, Deputy Noonan. They are the Ministers. They were elected by the people. I would like to hear the Minister of State's view on that issue.

Senator Thomas Byrne: I am sure the Department would have had discussions with the various industries on the prospects for job creation. While the amendment describes a report, it does not describe a report informed by CSO statistics.

We regularly get Ministers making jobs announcements. They are not based on CSO figures. Unfortunately, we often hear that some of the jobs do not always materialise. It would be helpful if we had some information, at least in the report, that was available to the Ministers, not necessarily from the CSO.

I ask specifically that the Minister inform us of what representations the newspaper industry made on the VAT reduction, what undertakings it gave on the jobs it would create and whether it gave any undertakings that it would stop letting staff go because, as I stated, many journalists have been let go from various newspapers.

Deputy Brian Hayes: It is a general enough amendment which allows us to discuss something. In fairness, there are regular debates in both Houses. Presumably, when the committee system to which Members in this House will be party gets up and running, those reports by Government to those committees, and to both Houses, will provide an opportunity to discuss these issues.

No one makes the claim that one tax change or a group of tax changes will automatically lead to X number of jobs. What is important is that we have made tourism a key aspect of our jobs initiative. There is an acceptance of that. Built into that is the reduction on VAT from 12.5% to 9% for a number of key areas as a means of boosting demand within the sector, and also reductions on the PRSI side. Another key aspect of the jobs initiative, which is not in this Bill but is in the forthcoming Social Welfare and Pensions Bill, is the reversal of the decision on the minimum wage taken by the previous Government.

In the round, it is the view of Government that we can stimulate the domestic economy. We cannot disaggregate all of the jobs created from this initiative from jobs in the general economy. Our purpose here is the same, namely, that we will have an opportunity on a regular basis, whether bimonthly or not, in this House, the other House or in committees, to have a debate.

If one looks at the clear proposals we are setting out on the airport tax, as Senator O'Brien will be aware, in the first instance it only comes about when we have new deals with the airlines. Second, by the end of 2012 we can change tack on passenger numbers if we have not seen those numbers increased. That is a specific area where there is real live data. Perhaps Senator O'Brien's point is well made, that we need to improve the way in which the data for other aspects of the economy is governed and is brought to the attention of the CSO and the Department of Finance.

There is no great difficulty with what Senator O'Brien wants. We will have those debates. It will also be patently obvious, come the end of the year and halfway into next year, whether or not we are seeing improvement in the tourist numbers. That is the key aspect of what is at the heart of this proposal.

Senator Byrne asked about the newspaper issue. I am not aware of that specifically but I will to get an answer to that later in the debate.

Senator Darragh O'Brien: I appreciate what the Minister of State is saying and we will be debating this. However, it concerns me.

The Government is looking at a tax measure over four years of €1.8 billion. The Department of Finance would not be happy to know that we are raising a significant €470 million a year on the basis of the levy and will not be able to track the output of it. I understand the Government can do it on passenger numbers. That is easier to do. This is not necessarily an easy provision. However, it is a major taxation measure. It amounts to over €1.5 billion over a four-year period. I put it to the Minister of State that he would want to know whether or not this is working. I would not be happy with a situation whereby the matter will be regularly debated in committee or in the Seanad. What will be debated? Will we have any figures on the taxation measures here and the reductions in VAT and the various matters that we have covered, and not be able to track how successful that will be?

It is very important to get a handle on this. If the officials cannot quite do it now, the Minister of State should be asking them to find a way through Tourism Ireland and the retail sector. No doubt it will not be 100% scientific. Surely the Government would want to know that the jobs initiative is working. We are talking about a lot of money — nearly €1.8 billion. If I was in the Minister of State's shoes, I would not be happy implementing these measures and taxing existing pension schemes — we went through that yesterday and we disagree with the fundamental point — but not knowing the outputs.

Senator Jim Walsh: I listened to the Minister of State and to some of the debate on this issue in the Lower House as well. I have never believed that Governments can create jobs. The best they can hope to do is to create an environment where the private sector will create the jobs. In that regard, it is interesting that what is endeavoured to be done here is reducing specific taxes in certain areas in order to try to generate activity within sectors such as tourism in the hope that additional jobs will follow as a consequence.

That should be paid for by reducing costs. The cost of government is much too high. Everybody working in the public service, including Oireachtas Members, is overpaid, probably by one third, as are people in the private sector. We need to bring the economy into alignment with our main competitors, specifically developed economies such as Germany, France, Britain and the Benelux. I am not even making comparisons with eastern European countries.

Perhaps I misheard the Minister of State, but I understood from his contribution that he believed increasing the minimum wage would lead to the creation of jobs. I hope I misunderstood his words.

Deputy Brian Hayes: The increase in the minimum wage is part of the package.

Senator Jim Walsh: The Minister of State's comment that the increase forms part of the jobs initiative package implies that it is a mechanism to generate jobs. What the Government has done in restoring the minimum wage to its previous level is place an obstacle in the way of creating jobs. I could bring the Minister of State to people in any part of my county, as could the Fine Gael Party finance spokesperson in the Seanad, whose businesses are failing as a

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result of the level of the minimum wage and rates set by the joint labour committees and so forth. He obviously does not speak to business people, given that he is shaking his head.

I admired the courage of the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton. I hope there is a sufficient number of sensible individuals in the Government parties to bring to fruition that which needs to be done in this respect. If we do not restore competitiveness in the economy, there will be a drag on the economy and few gains in employment for the next decade.

An Cathaoirleach: The Senator is departing from the scope of the recommendation.

Senator Jim Walsh: I am responding to the point the Minister of State made which is fundamental to this debate. Much of the commentary I have heard from Government backbench Deputies and members of the Government has been unfortunate. The exception has been the Minister for Education and Skills, Deputy Ruairí Quinn, who stands out because he has stated exactly what needs to be done and appears to have the courage to follow through on it. If the Government does not show backbone, we will have serious difficulties.

It is erroneous of the Minister of State to assume that increasing the minimum wage or taking €1.8 billion from private pension funds will in some way assist the objectives of the Bill. On the contrary, the proposed measures will be highly counterproductive. How can we have a minimum wage which is between 40% and 50% higher than the rates set in much stronger economies such as Germany, France and Britain?

An Cathaoirleach: The Senator's contribution is not related to the recommendation.

Senator Jim Walsh: It has everything to do with the Minister of State's comments on increasing the minimum wage, which is part of the parcel of job creation. The minimum wage is related to the recommendation through the job creation programme.

An Cathaoirleach: The Senator's contribution is pertinent to the section rather than the recommendation.

Senator Thomas Byrne: We have an equation to which the answer is jobs. All of us want more jobs to be created. The Government believes taxing the pension pots of ordinary workers to give a tax break to large and small businesses will generate employment. However, the Minister of State is unable and unwilling to provide a figure for the number of jobs that will be created by this measure. If taxing ordinary workers to pay for tax breaks for business will lead to the creation of jobs, the Government has an obligation to inform us, on a regular basis, how many jobs will be created by this measure.

Deputy Brian Hayes: In reply to Senator Jim Walsh, I stand over the package in its totality. It is crucial that we create an environment in which tax on new jobs will be reduced — we have done this in the legislation dealing with employer's PRSI — and people are given a clear incentive to take up employment. The PRSI changes announced in the package are clear and will be funded directly by overturning the previous Government's decision to reduce the minimum wage. Although 14% of the labour force are out of work, it should be noted that 1.8 million people are still in employment. It is crucial that every single one of these jobs is maintained in the real economy. Achieving this objective requires a mixture of policies, one of which is to incentivise people to take up work by restoring the minimum wage to its previous level. The race to the bottom, which Senator Jim Walsh and others appear to propose, is inherently

wrong. If we are trying to have a competitive economy in which work is rewarded, while also ensuring the necessary competitive aspects of the economy are put in place, we——

Senator Jim Walsh: Does the Minister of State not believe there is a component of competitiveness involved?

An Cathaoirleach: Please allow the Minister of State to continue, without interruption. The debate is departing from the scope of the recommendation.

Deputy Brian Hayes: I am probably responding to another agenda, for which I apologise. While I do not propose to accept recommendation No. 1 for the reasons I have outlined, I thank the Senators opposite nonetheless.

Question put:

The Seanad divided: Tá, 14; Níl, 28.

Tá

Byrne, Thomas.
Cullinane, David.
Leyden, Terry.
MacSharry, Marc.
Mooney, Paschal.
Ó Clochartaigh, Trevor.
Ó Murchú, Labhrás.

O'Brien, Darragh.
O'Donovan, Denis.
Power, Averil.
Reilly, Kathryn.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Bradford, Paul.
Brennan, Terry.
Burke, Colm.
Clune, Deirdre.
Coghlan, Paul.
Comiskey, Michael.
Conway, Martin.
Crown, John.
Cummins, Maurice.
D'Arcy, Michael.
Gilroy, John.
Harte, Jimmy.
Heffernan, James.

Henry, Imelda.
Higgins, Lorraine.
Keane, Cáit.
Kelly, John.
Landy, Denis.
Moran, Mary.
Mullins, Michael.
Noone, Catherine.
O'Donnell, Marie-Louise.
O'Keeffe, Susan.
O'Neill, Pat.
Quinn, Feargal.
Sheahan, Tom.
van Turnhout, Jillian.

Tellers: Tá, Senators Labhrás Ó Murchú and Diarmuid Wilson; Níl, Senators Paul Coghlan and Susan O'Keeffe..

Question declared lost.

An Cathaoirleach: Recommendation No. 2 has been ruled out of order.

Recommendation No. 2 not moved.

Section 1 agreed to.

SECTION 2

An Cathaoirleach: Recommendation No. 3 has also been ruled out of order.

Senator Thomas Byrne: Will the Cathaoirleach please explain the reason? It appears the word “declaratory” does not require the Minister to do anything. Perhaps the Cathaoirleach might explain the meaning of the word in this context.

An Cathaoirleach: It is declaratory in nature and I have ruled the recommendation out of order.

Recommendation No. 3 not moved.

Section 2 agreed to.

SECTION 3

An Cathaoirleach: Recommendation No. 4 in the name of Senator Byrne is ruled out of order as it is outside the scope of the Bill. Recommendation No. 5, which is also in the name of Senator Byrne is also ruled out of order.

Question proposed: “That section 3 stand part of the Bill.”

Senator Thomas Byrne: I understand my recommendations are ruled out of order, but it is important to highlight what is being done here. This specific part of the Value-Added Tax Consolidation Act reduces the VAT rate for a number of services to which a 13.5% tax rate applies to 9%. The difficulty I have with the section is that it applies only to a certain number of services, but it is for the benefit of providing jobs, which is very important. These services include meals, restaurants and hairdressers. One Dáil Member suggested the reason hairdressers are included is because they now operate in all the hotels. I do not have time to get my hair cut in a hotel, but perhaps the Minister will explain why hairdressers are included. I hope the reduction will benefit hairdressers and they will lower their prices and be more competitive. However, I do not feel hairdressers are subject to competitive pressures in the area of cross-Border or tourism trade.

Newspapers have also been included in the VAT reduction. The Minister of State undertook to come back to me with regard to why they are included and as to what representations the industry made, what jobs it promised and what would be delivered. That sector certainly does not have much to do with tourism. I hope the reason it has been included is to do with competitiveness. I hope the reduction in VAT will help cut the price of newspapers, enable them keep people more informed of what is going on and maintain balance and freedom of the press.

Products that have not been included in this section are household fuels such as oil and coal and the range of products that people use to heat their homes. These have a VAT rate of 13.5% and it is a pity there is no tax break for people in that regard. A reduction in this area would create jobs. Currently people ration their fuel during the winter, particularly those who use oil and who must buy in bulk and pay a lump sum. If those people got a tax break, we would see more jobs in the area and we would see more deliveries of oil to houses. However, there is no tax break for people who want to heat their homes during the winter. There are tax breaks for people who want to go for a meal or stay in a hotel all in order to create jobs. Why are there no tax breaks for ordinary people who cannot afford to stay in hotels, eat in restaurants or, in many cases, go to the hairdresser. Many of them do not even buy newspapers because they are too expensive. These people have not been provided for in the Bill. This is unfortunate because we want fairness across all levels of society. There should be fairness for those in fuel poverty, but there is no provision for them in the section.

Senator Michael D'Arcy: On that issue, yesterday I stated that we have a difficulty in this State because our cost base is too high. One area in particular where the cost base is too high is hairdressing. The problem has more to do with the black market rather than the green economy. The black market economy provides nothing for the State. It deals in cash. The cash goes into somebody's pocket and the State gets no opportunity to gain merit from that activity via VAT. Deputy Byrne asked about hairdressing. There is an industry in this area where people with the skills visit people in their homes and get paid money which goes into their back pockets. The State sees no portion of that. What we need to do, as suggested by Senators Byrne and Walsh, is to reduce costs. If we do not reduce our costs, we will lose more jobs. Members want to know how many jobs will be created by this measure. We cannot say for certain, but we know how many jobs those industries have lost in the past two or three years — 25% of them. That is a significant number of jobs. We do not know what number of jobs will be created over the next three to four years, but we must arrest the decline.

I did not comment on section 1 as I did not want to move outside the scope of the debate, but I ask the Cathaoirleach to allow me comment now. Several years ago, the then Minister for Finance, Mr. Charlie McCreevy, reduced capital gains tax from 40% to 20%, without at that stage being able to quantify the impact that would have on the market. However, when the decision was made, capital gains tax returns increased significantly. There are, therefore, methods the Government can find to be proactive. This is what the Government is doing with this Bill.

Senator Jim Walsh: I agree with the points being made by my colleague, Senator Byrne. It is very difficult to understand how the newspaper industry qualifies for a reduction in VAT. He pointed out earlier that the industry has been shedding jobs. Not only I, but people who share their time between our jurisdiction and other countries also in deep recession believe the negativity of the media here has ensured that any confidence that may be engendered by any Government initiative will founder. If the media industry closed down completely for 12 months, this would assist some sort of economic recovery.

I accept the point made by Senator D'Arcy with regard to the black economy and the hairdressing industry. One significant industry that has been omitted from the section is the construction sector. I do not understand the reason for that. The construction sector has contributed most to unemployment. Many former construction workers face great difficulties in ever getting work again because of their lack of skills. People in the State sectors charged with retraining believe it will be almost impossible to reskill these people at a scale that will reintroduce significant numbers of them to employment. Given the over supply of residential and industrial units, this will be very difficult. However, anything that can be done to incentivise employment in this area should be done. It is for that reason I am strongly opposed to the increase in the minimum wage and to the continuance of the JLCs. These are a sop to the unions, which are grossly overpaid, mostly through employees in the public sector. Unless reality dawns, our economy could implode. The consequences will be enormous.

Can some consideration be given to the construction sector? I suggest that a zero VAT rate should be applied to specific areas of the construction to generate jobs. This might create more jobs than in any other sector because of the number of people who have left the sector in recent years.

Senator Paul Bradford: I find the comments of Senator Walsh interesting. Over the past five or six years he has made many predictions. We thought those predictions dire and overly pessimistic at the time, but sadly they came to pass. He has maintained a consistent line with regard to the need to reform the economy and the public service and to keep costs down. I

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take on board what he has said. However, with regard to his comments on the construction industry and his efforts to provide some degree of assistance, it must be acknowledged that as part of the broader jobs initiative, money has been set aside for energy and insulation grants. That will be beneficial for the construction industry, even if it is on a small scale basis. The Minister for Education and Skills has also introduced an initiative to provide significant assistance to the schools building programme. That will also create jobs.

I welcome section 3 as a whole. It is not often that the Minister of State or his colleagues come into this House and do what we ask them to do. There has been a strong demand across the sector to reduce VAT on these services and the tourism industry in general. This Bill will do that. We would love if it could go further, but we have to appreciate the very difficult economic times we are in and the fact that the Government's choices are limited.

It is interesting that the reduction in the section will only apply for a set period. It is a bit like the air travel tax. Representatives of sectoral interests have told us that if we do certain things, they will create a certain number of jobs. As a result of this reduction for a limited time, we will be in a position to put the challenge to people in this sector and await their response. I hope it will be positive and effective.

The history of taxation in this economy going back to the 1980s has been that when we have provided incentives, they have resulted in economic activity and job creation. There was an excess in respect of property tax reliefs, but a simple rule of economics is that when income taxes are reduced, particularly income tax and VAT rates, additional economic activity is generated.

I look forward to the introduction of this section. It will be beneficial. Under the constrained circumstances in which the Government finds itself, it is as far as we can expect to go at this stage.

Senator Paschal Mooney: I welcome the reduction. I have advocated this on a number of occasions in the House, especially as it applies to tourist related activities, which initially was the main thrust of the initiative. However, there is inequity in the small print, as my colleagues have pointed out.

I will focus on one aspect of the section, which the Minister of State might clarify. It refers to "certain musical performances". Perhaps he could elaborate as to what "certain musical performances" are. I assume it means that the major concerts taking place in the O₂ and in various other places will now be subject to the lower rate of VAT. I welcome anything that would generate economic activity, but with the Take That concert in Dublin this weekend, there has been much criticism of the manner in which the hotels have jacked up their prices. One hotel source was quoted in the newspaper this morning as saying that as they offer relatively cheap rooms for the rest of the year, jacking up the price and doubling or trebling the rate for this weekend evens out across the year. It may even out their books, but where does the consumer come into this? This is not unique to this country as it happens everywhere there are sporting, musical or other events taking place over a weekend. Not only do the hotels indulge in jacking up prices, but the airlines also do it for international football and rugby matches.

I welcome the reduction because it will be a pull factor for international acts to come into the country as they will be paying less to the Government. However, one should also remember that while Take That and other musical acts are providing a great deal of entertainment, there are hundreds of thousands of euro going out of the country in fees and so on to bring them in.

I will also focus, in the context of “certain musical performances”, on what is euphemistically referred to as the live band industry here. There is a live band industry which is in decline primarily due to the lack of promotion on our national airwaves, but local radio fulfils that gap to some degree. I am talking about many of the indigenous Irish singers and bands; not necessarily those that are playing country music, but those who are playing Irish traditional, folk and other forms of Irish music. Will the venues presenting indigenous Irish music be able to take advantage of the reduction in the VAT rate? These bands, groups, artists and the venues pay VAT. If these venues are to be exempt from the higher rate and will be able to take advantage of the lower 9% rate, this will be a good thing because it means that their cost base will be reduced considerably. That will be in the interests of the consumer.

I welcome the reduction in the VAT rate as it applies to cinemas and theatres. We pride ourselves on our artistic endeavours and inclinations. The point has been made that while it will be cheaper to go to the cinema and theatre, businesses with high fuel bills will not be exempted. However, reducing the VAT on cinema attendance is a positive move. Going out to the cinema and the theatre can be very expensive. It is not necessarily contained in the admission price, but it is often in the ancillaries. I used to advise my children, when they were going to the cinema, to go to the shop across the road to buy their popcorn, because it was three times the price in the cinema. They contributed in a small way to the local business while the cinema was getting the admission price anyway.

To sum up, the thrust of my contribution is to ask exactly what the “certain musical performances” are.

Senator John Gilroy: It is difficult to know where to start. Perhaps I should start by commending the Opposition for their valiant efforts in finding something to criticise in a VAT reduction. I am new to this Chamber, but I am not new to the English language. It is with some disbelief that I hear Senator Byrne opposing VAT relief in section 2 and proposing that we extend the VAT relief to the construction and energy industry in section 3. Perhaps being new to the House makes me miss the point here.

I see that the legislative text refers to a reduction of VAT on certain tourist related goods and services. Yet the debate from the Opposition seems to be in the area of construction, energy and so on. As an aside and from listening to Senator Walsh, I would like to know whether it is Fianna Fáil policy to reduce the minimum wage again and reduce public service salaries by 30% in a bid to create more jobs.

There is very little in this section that is anything other than positive. This is a stimulus. It has been noted before in this debate that governments do not create jobs. That is universally accepted, but governments create the framework under which jobs are provided. That is the point of this section in the Bill and I welcome it.

Senator Thomas Byrne: I would like to clarify for Senator Gilroy the reason I am disappointed at this VAT relief, which we are not opposing and which we welcome. We are not opposing the section. We are concerned that the VAT has not been extended to other items that are included in Schedule 3 of the Value-Added Tax Consolidation Act 2010. That schedule contains a list of goods and services. This Bill refers specifically to sections 3(1), 3(2), 3(3), 7, 8, 11, 12 and 13(3) of that Schedule, and I wonder why section 17(1), which includes household fuels — that is, costs that affect the poorest people in society — is not included. Why are they not getting a break? That is the point. It is not that we oppose measures that may, and I hope, will create jobs — we are just looking for fairness. I have not mentioned the construction industry, but what about the energy industry? Section 17(1) of the Schedule applies only to the home energy industry, including suppliers of home fuels, oil, coal and so on. Why is this

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measure not being extended to them, while the media barons are getting a break, although there is no demonstrable benefit? The Minister has failed several times to answer the questions I asked about newspapers.

I disagree with my party colleague on cinemas. Ireland has one of the highest rates of cinema attendance in the world. I regularly go to my local cinema at the weekend. I went to see “The Hangover Part II” last Friday night with my wife and it was very enjoyable — I must say I disagree with the critics on that one. It is very pricey to go to the cinema, yet the place is packed. It does not seem to me that there is a problem there. There are many people employed in the cinema industry, which is by and large a multinational industry, yet we are giving them in a tax break in the hope and expectation that they will create jobs. I certainly hope they will create jobs.

On section 3, I want to clarify for Senator Gilroy that the VAT reduction in the tourism sector is very positive. However, it is important that the Government and the responsible bodies, including Tourism Ireland, go out to the world, tell people we have reduced our prices and ask them to come here. The Minister said the proof would be in the tourism numbers. I hope we will be able to show increased numbers of people coming to the country, but that will only happen if we let them know. I have often questioned the value of advertising tourism products within Ireland, although I accept that domestic spending is important. With regard to the brochures that we get in the newspapers every couple of months showing us the deals, however, it seems to me the money would be far better spent abroad in an attempt to attract new money into the country. The Irish people certainly know that prices will come down, and I hope they will come down because there is no provision in the Act to force them to come down. I also hope this will create jobs. However, the best way to ensure that happens is to let people know abroad that we have made our product more competitive.

It is important to note that the Irish tourism product has become much more competitive in recent years. I often thought it was a shame that we were not advertising across the world. We have luxury hotels all over the place — we might call them NAMA hotels, but they are fairly luxurious compared to what one gets in other countries — and they seem to offer rooms at very low prices. There is a major opportunity now to tell this to people around the world. They are used to really bad hotels when they go on holidays — in America, particularly, the standard of hotels is generally much lower than here. This is also the case, it must be said, in Great Britain. Moderately priced hotels in Great Britain are usually terrible places to stay. One cannot find nice places such as we have here. The message needs to go out abroad that one can find a really nice place to stay here for a low price. Now, thanks to this measure, the prices are even cheaper. I hope we will see jobs created as a result of that and the unemployment rate going down.

I hope this Bill will be successful. I want the Government to win on this Bill because in this case, a win for the Government is a win for the country.

Senator Feargal Quinn: I was impressed by Senator Jim Walsh, who spoke from the heart about his concerns that if we do not manage to get our economy right we will implode. There is little doubt that to achieve this we must be competitive. We have not been competitive; we really lost the run of ourselves in recent years. I have told the story before of going to Dundalk and meeting two butchers who were losing their jobs. I said to them that they would probably have to travel to Newry to get jobs, but they said “No — in Newry they pay one third of what we earn here.” That is the sort of difference that existed. We have to do something about jobs, and the way we will do this is by incentivising job creation through tax measures. That is a delicate plant.

Senator D'Arcy impressed me with his comments about how the former Minister for Finance, Mr. Charlie McCreevy, reduced capital gains tax from 40% to 20% and took in more as a result. A better example is his reduction of the betting tax, for which I was here at the time. The tax was reduced from 20% to 10%, and the Opposition howled and accused the Minister, who came from County Kildare, of helping his friends in the horse racing business. He came back in a year later and said that he had taken in far more money at 10% than at 20%, so he was reducing it to 5%. He came in again the following year and said he had taken more at 5% than he had at 10%. The reason I am taking pains to explain this is to demonstrate that adjusting tax rates is a delicate operation. He could not keep reducing the tax to 0% and hope he would take in more. However, there is little doubt among those of us who have been in trade, especially the grocery trade, that when one reduces prices one can sometimes make more money. It is delicate and must be done cleverly. The reduction in the travel tax must be promoted, because if people abroad are not aware of it, it will have no effect.

I know we are not discussing the minimum wage at this point, but it seems to me that there are a certain number of jobs that do not exist at a certain rate. Because of this, I am not a believer in a minimum wage. An example of this is the state of Colorado in the US, which reduced the minimum wage because it is linked with inflation — it did not have a choice, as it is set up that way. There are opportunities to reduce tax and take in more money on that basis. What the Government is doing on this occasion deserves support, although I do not quite understand why it has selected some products rather than others — Senator Byrne touched on this. I am also not sure why newspapers and hairdressing are included while other good and services are not. This is not a Bill whose aim is to be fair; its aim is to try to create more jobs. It is going in that direction and it deserves support, particularly the provision we are discussing now.

Senator Kathryn Reilly: I will add a few brief comments on the section, which I support. While we wholeheartedly support the reduction in the lower rate of VAT, we have some concerns about the programme for Government commitment to limit the top rate of VAT to 23% and the effect this will have on retail and trade and ultimately on jobs, especially in the Border areas, if people start going North to do their shopping. I would have supported the amendment providing for an impact assessment, but I must register my concerns about the increase in the higher rate of VAT to 23%.

Deputy Brian Hayes: This is an interesting debate on all sides and we will do our best to answer all the points made. Senator Quinn is right in saying that this is a delicate plant. It is not an exact science. Our commitment in the programme for Government was to reduce tax on labour-intensive industries from 13.5% to 12% across the board. We examined this again and, as an initial measure, decided the way to go was to concentrate on the tourism sector, which is the most ready, willing and able to ramp up the numbers of tourists. We have made a significant announcement about the air travel tax and about PRSI. It makes logical sense, if we are encouraging people to experience this country, to do whatever we can to reduce their costs on a whole range of different activities that they will engage in while they are in the country. The Government has adapted its approach. Rather than implementing a blanket reduction in VAT from 13.5% to 12% for all labour-intensive industry, we focused on tourism to try to increase visitor numbers and get an early win in terms of additional jobs. That is exactly what the objective is.

With regard to Senator Reilly's point, there is also a commitment to re-examine increasing the top rate of VAT. The Senator is right in saying that this could have unintended consequences, particularly along the Border area, where there is such a difference in tax from one

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side of the Border to the other. These proposals must be examined in the round. We are seven months away from the next budget and the Minister for Finance is engaged with all of this. We are very aware that a change in one area of tax could have a devastating effect on employment in another area. We must see how this initiative works first.

Senator Byrne's amendments were ruled out of order, but they are fair points to make. Why include one set of goods and services and not others? He does need a reply on that. The Senator has proposed that a poverty impact assessment be undertaken on the basis that the VAT reduction is not being applied to certain sectors. There is a cost in all of this, as the Senator is well aware. Given that the entire package must be fiscally neutral, we were obliged to weigh up the cost of reducing VAT in one part of the economy as opposed to another. The Senator makes a fair point in referring to the many citizens who are being pushed to the pin of their collar and will be even more so as winter approaches and there are substantial home heating bills to be paid. However, it is better to deal with that issue through the social welfare code rather than as a stand-alone VAT issue. The budget allocation for the existing national fuel allowance scheme is €230 million this year, a substantial commitment which may well increase next year based on the numbers finding themselves in a poverty trap because of high fuel costs. It is something we will have to review separately. It is the view of the Minister for Finance that it is better to deal with it by way of the social welfare rather than the VAT code.

Senator Thomas Byrne has also asked why newspapers are included in the VAT reduction. The 9% rate will apply to printed materials such as brochures, maps, programmes, leaflets, catalogues and newspapers. As many of these goods are relevant to tourism and EU legislation allows for such a reduction, it was decided to include printed material among those items to which the new lower rate would apply. Buying these types of printed material is part and parcel of the tourism experience for many visitors.

Senator Darragh O'Brien: That is a large stretch.

Deputy Brian Hayes: That is why newspapers were included.

The Senator also asked why hairdressing was included. The rationale is that, first, it is a labour intensive service and, second, if there is any improvement in the domestic economy, it is one of the areas in which we will see some pick-up in terms of people getting their hair done for a night out and so on. It is not something I have done often myself.

Senator Darragh O'Brien: The Minister of State is thinking of long-haired literary types who read the newspaper while getting their hair done.

Deputy Brian Hayes: I am told by people who get their hair done on a regular basis that it can be expensive. That is why this measure was included.

Senator Jim Walsh makes a fair point about the construction industry which has gone through an enormous collapse from a point some years ago where it employed 85,000 to the current dire situation. Despite all the palaver about developers and the like, the reality is that we need a construction industry. At some point we will have to get back to building houses and investing in infrastructure. However, it is prohibited under EU law to reduce to a zero rate unless that rate was in place in 1991 when the new tax rules were introduced.

As Senator Paul Bradford observed, there was positive news in the initiative on issues such as the schools building programme, retrofitting and so on. For example, the Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte, has made an announcement on the allocation of €30 million, which will obtain another €30 million in private sector

investment. This will provide employment for some 6,500 people this year in retrofitting. However, we need to do more in this regard. One of the best ways to reduce heating bills is to have one's home retrofitted.

Deputy Thomas Byrne: I agree.

Deputy Brian Hayes: It is one of the areas in which the economy is doing well. We must ensure our approach is successful in stimulating greater demand and facilitating the creation of jobs.

We have done our best, as part of the initiative, to introduce new funding on the construction side. We will not get back to the numbers employed in the industry at the height of the boom, but I agree that we must work to stimulate employment in the sector. I have made the point recently that there are some 4,000 vacant housing units in Dublin, of which 85% are apartments. If the economy were to turn quickly, we would be faced with a huge housing shortage.

Senator Darragh O'Brien: Correct.

Deputy Brian Hayes: Nobody wants to talk about this and the fact that not everybody wishes to live in an apartment. We must acknowledge that the construction industry is part of the country's future, despite all of the understandable anger directed at certain people because of the effects of the property bubble.

Senator Paschal Mooney asked about certain musical performances. I understand from my officials that this refers to cabarets and shows in venues where food and drink are served. The rationale is that tourists staying in an hotel will often pop down the road to have a meal and a drink and watch while enjoying a musical performance. They may wish to see Daniel O'Donnell, for instance.

Senator Fiach Mac Conghail: I welcome the Minister of State and congratulate him on his appointment. I look forward to his continued support for the excellent work of the Office of Public Works. It is important that resources in this area are protected not only for the benefit of our artists and cultural organisations but also for the tourism industry.

I am confused by the inclusion of theatres in the categories to which the new 9% VAT rate will apply, given that theatre has been exempt from VAT for some time. Will the Minister of State clarify the matter and whether it represents a change in Government policy? I will be sure to get a haircut before the end of 2013 to avail of the lower VAT rate.

Senator Thomas Byrne: I accept the Minister of State's rationale for the inclusion of hair-dressing in the lower rate. My point was that it was something of a stretch for a Government Deputy to say on radio that it had been included because hair salons were increasingly located in hotels. Nevertheless, the Minister of State has made his point well. However, it is certainly a stretch to include the newspaper industry. The reality is that this sector is controlled by many of the people who would be in the top 20 rich lists compiled by some of these newspapers such as *The Sunday Times*. These are the people who will benefit from this tax break. Senator John Gilroy wondered why I was opposing these provisions. I do not oppose the section, but I wonder why, if the provision is extended so far as to include newspapers, why it could not be extended to include household fuels. I am not talking about the energy industry or motor fuels but household fuels.

The Minister of State did not fully answer my question as to whether representations had been made by the newspaper industry, including promises of jobs. In fairness to them, we constantly hear representatives of the tourism industry lobbying on this issue. They have made

[Senator Thomas Byrne.]

a very good impression as a representative body and we can be hopeful the industry is going to create jobs as a consequence of this initiative. It has certainly raised expectations and played a good game and I am confident it will do a good job. However, I am not convinced that the same applies to the newspaper industry. We have not heard its representatives on radio lobbying for these changes; therefore, I wonder what form their lobbying might have taken. The sector does not have a good record in terms of employment. I raise this issue as a matter of social justice. Senator John Gilroy may criticise me for raising it, but he will have to go back to his constituents and admit that the Government gave a tax break to the *Irish Examiner* but household fuel prices will remain the same.

I welcome the Minister of State's indication that there may be more money for the fuel allowance scheme. He mentioned the home energy saving scheme and the warmer homes scheme, initiatives introduced by the last Government. He is correct that the best way to keep a home warm is to retrofit it. That was a very successful programme, but one of the first actions of the new Government as part of the jobs budget was to reduce the grant available to private contractors under the scheme in what was a booming industry. That has made life more difficult for them. If the provision has the effect of having more houses retrofitted, I will support it.

The Minister of State also referred to the summer works scheme. As I said before, there are fewer projects going ahead this year, certainly in my own county of Meath, than there were last year, but these measures are dressed up successfully as part of the jobs initiative.

My questions on the newspaper industry were not satisfactorily addressed by the Minister of State, but my colleagues and I will not oppose the section on that basis.

Senator Jim Walsh: How does the Minister of State propose to police the VAT reductions? We did away with price controls when they were needed at a time of significant growth in the economy.

Consequently, a great deal of profiteering occurred. Previous speakers referred to obtaining good value in hotels and restaurants. That is undoubtedly true of certain establishments. However, it is not true in respect of many establishments. I recently met someone from the Continent who visited Dublin and who stated that it remains hugely expensive.

Newspaper prices have increased significantly in recent months. I presume this is not cost-related because in light of existing pressures, all good businesses are cutting their costs. The only entity not cutting its costs is the public service. I do not expect that the increases in price can be justified on the basis of costs. I wonder if these increases were anticipatory in nature so that when the reduction in VAT arrives, profits will either remain steady or perhaps increase. This type of behaviour will be difficult to police.

In respect of the programme for Government, there were some good innovations in the context of what the Taoiseach did in reconfiguring Departments. I agree with some of the changes introduced but not with others. If the country needs anything, then it must be a Department to deal with consumer affairs and competitiveness. Surely any Government's main objectives would lie in these areas. If it were possible to do so tomorrow, I would advocate reducing wages across the entire economy. However, there would be a corresponding need to reduce prices. If we could engage in such a wholesale reduction, we could make great strides towards overcoming some of the difficulties we are experiencing.

I do not wish to make dire predictions but we are heading towards a point where we will be forced to devalue. The consequences of such an eventuality have not been contemplated at all. The alternative is to reduce costs and salaries across the economy. This constitutes a significant

part of the correction that must be made. If we make such a correction, we can then begin to rebuild and restore confidence because we will once again reach the point where wages will increase.

It will not be possible to deal with our current difficulties over the period of a decade. In such circumstances I urge the Minister of State to consider how we might ensure that the envisaged reductions will be passed on to the consumer. If they are not passed on, jobs will not be created. I will be interested in hearing the Minister of State's comments in respect of that matter.

Deputy Brian Hayes: The Senator's prediction of a forced devaluation is somewhat apocalyptic in nature. As he is well aware, all of our debts are in euro. Were we to leave the euro and join another currency or re-establish the punt, all of our debts would, in effect, double overnight. If the Senator is of the view that we currently have a problem in respect of public and private sector debt, then he should just wait until that which he describes happens. I hope that the eventuality to which he refers will not come to pass because we must work our way through out difficulties as they stand.

I made the point on Second Stage that in the 1980s, one third of all taxes collected were used to pay interest on our national debt. Under current projections and in a worst case scenario, up to 20% of all taxes collected will go towards paying off our national debt. This is sustainable. There is no doubt that the situation is difficult. Our debt to GDP ratio currently stands at 95% and this will rise to 118% by 2013. At present, Greece's debt to GDP ratio is 165%. We may be in a difficult position but at least it is not as bad as that occupied by Greece. Our debt is manageable if we can encourage the economy to grow. That is why the measures in the Bill, small and modest though they may be, are designed to spark some hope within our domestic economy.

The Senator is correct when he refers to the necessity for competition. We need to ensure that we have a properly deregulated economy in which there is competition. I fully agree that there is a real need for labour reform. The package of measures relating to the reform of the JLCs which the Minister for Enterprise, Jobs and Innovation, Deputy Bruton, is due to bring before the Cabinet shortly is crucial in the context of ensuring that — in view of the collapse in the economy to the tune of 15% during the past three years — we will have a labour market that is fit for purpose.

Senators inquired as to how we will know whether what is proposed is working. I accept that there is no domestic policeman who will inform us about whether that which we are attempting to do will be passed on. However, the consumer price index, which is issued on a monthly basis, sets out information on a basket of goods and services. I understand it is possible to ascertain from the index the tourism-related information that will indicate which prices are increasing or decreasing. By collating this information we will be able to discover whether the initiatives in the Bill are making a difference. The monthly consumer price index will assist us in respect of this matter.

I thank Senator Mac Conghail for raising the matter about which he is concerned. He also discussed it with me privately yesterday. The Senator is absolutely correct. There is a zero rating of VAT on theatres.

Senator Fiach Mac Conghail: Are they exempt?

Deputy Brian Hayes: Yes, theatres are exempt. I had thought the exemption applied just to the national theatre but apparently that is not the case. I understand it relates to all theatres. However, there are some theatres which have restaurants attached to them. If there is food

[Deputy Brian Hayes.]

and drink available, then one pays VAT as one goes in. What we have done in this exemption is remove them for the purposes of placing these theatres on the same footing as other theatres in respect of which a different rate of VAT applies in order that they might compete with them on a regular basis. I hope that clears up the ambiguity.

Senator Fiach Mac Conghail: It does not apply in respect of ticket sales.

Deputy Brian Hayes: No.

Question put and agreed to.

SECTION 4.

Recommendations Nos. 6 to 8, inclusive, not moved.

An Leas-Cathaoirleach: Recommendations Nos. 9 and 10 are related and may be discussed together by agreement.

Senator Thomas Byrne: I move recommendation No. 9:

In page 12, to delete lines 44 to 57 and in page 13, to delete lines 1 to 3 and substitute the following:

“(a) a chargeable person who is an insurer pays an amount in respect of the duty in relation to a contract of assurance, the amount shall be deemed to be a necessary disbursement from the pension fund of the insurer. Notwithstanding that, the insurer may not adjust accordingly any benefits under the contract.”.

We are dealing with recommendations Nos. 9 to 11, inclusive. I wish to defer to my colleague, Senator O’Brien, in respect of this recommendation No. 9 if that is acceptable.

Senator Darragh O’Brien: Recommendation No. 9 seeks to ensure that benefits agreed in respect of current schemes will not be reduced by a scheme’s trustees in order, effectively, to pay the levy. As stated on Second Stage, an average sized company might have a scheme which has been in operation for 20 to 30 years and this might incorporate a mix of retired members — with their retained benefits — and members who are currently working and contributing. If a scheme has combined assets of approximately €50 million, there will a charge on it under the levy of approximately €250,000.

We are seeking to ensure that the trustees of a scheme will not just simply reduce the existing benefits relating to the scheme.

Deputy Brian Hayes: For the purposes of clarification, will the Leas-Chathaoirleach confirm that we are dealing with recommendations Nos. 9 and 10?

An Leas-Cathaoirleach: That is correct.

Deputy Brian Hayes: I apologise for interrupting the Senator.

Senator Darragh O’Brien: The overall point I make is that someone who has been a member of a scheme for a long period will obviously pay more. We have already discussed my views on the levy and the inequality relating to it. The Minister of State must recognise that the larger the scheme, the greater will be the charge upon it. In the context of the levy, we are discussing work schemes which, in the main, are employee pension schemes.

We are not discussing proprietary director schemes in the main as they will not be hit as hard because of the approved retirement funds, ARFs, exemption inserted by the Government in the legislation. The longer a person has been in a scheme, the more he or she will pay. A person in a defined benefit scheme, with two or three years to go before retirement, may have an expectation that on retirement he or she would get two thirds of his or her final salary as an annuity for the rest of his or her days, which would be a good scheme, but now the scheme trustees will have to pay this levy. More than 70% of defined benefit schemes are underfunded. If a company is short of money, which many are, it might decide to reduce retirement benefits for its members, with the agreement of the scheme trustees, from two thirds to 50% of final salary or from 50% to 30% of final salary. That would have a grave impact on people who have an expectation of receiving in the short term a pension into which they have paid contributions for a substantial period of time.

The Minister of State stated clearly in his contribution yesterday, if I understood him correctly, that trustees would be given a free hand such that they could amend the structure of their pension schemes after they had paid the levy. That indication is being given to scheme trustees and to employers, who sponsor a large portion of defined schemes in particular which are expensive currently because there has been such a dip in equity and property markets. Many of what would have been seen as the base scheme assets have been hammered over the last three or four years. The average return — there is not an annualised return — on a managed fund in a ten-year period is approximately 1.6% according to the IAPF. The imposition of the levy will take out nearly half of that growth, which is minimal. We are now saying to the employer or the trustee, in many instances they are one and the same, that we understand that they cannot afford this levy and so are inviting them to hammer the scheme, to reduce the benefits under it, thereby reducing the funding requirements of it simply so that they can pay the levy.

This levy will penalise people who have made a conscious decision, encouraged by successive Governments, to prepare for and separately fund for their retirement, thereby reducing the financial impact on the State on their retirement. A pensions crisis is looming from 2030 onwards because of our ageing population. The longer people have been in a scheme, the more they will pay. The main contributors to pension schemes, who in most instances are employers, will be let off the hook. While our recommendation proposing a review of this measure was defeated, I take the Minister of State at his word that the jobs initiative will be reviewed, which I welcome, but such review should cover the impact of this measure on pension schemes and pension benefits. The Government will ensure that this levy will be imposed and paid this September and I could almost certainly say that in 12 months time there will be wholesale reductions in the composition of pension schemes, in promised pensions, retirement funds and retirement values paid out to employees. That would be a colossal impact of this levy, particularly if a person is close to retirement.

If a person has been contributing to a pension scheme since he or she was 20 or 21 years of age and has been building up a maximum entitlement of 40 years' service in the scheme, he or she will be hammered on foot of this measure. The Government will give employers, who in the most instances are the trustees of the pension scheme albeit it a separate legal entity from the company, a free hand to reduce the benefits, thereby allowing them to pay the levy. The purpose of recommendations 9 and 10 tabled by Senator Thomas Byrne is not to permit that and not to take the legs from under the benefits of existing members of pensions schemes. I read from a letter from the airline pension fund yesterday, which has 15,000 members, one third of whom are retired, a third of whom have retained benefits and a third of whom are still working. That letter clearly states that for existing annuitants within the fund, the pressure the levy will put on the fund will see a 9% reduction in the annuities paid out to existing members.

[Senator Darragh O'Brien.]

This is a significant pay cut. Effectively, one tenth of a retired person's income will be taken to pay for the jobs initiative.

I said to the Minister of State previously that we agree with many aspects of the jobs initiative. However, by levying pensions, the Government is exempting the majority of the pensions sector in what it proposes here. It should have examined levying tax free lump sums. If it needed to raise the money for this initiative, and I understand that governments need to raise money, it should have examined that option. The vast majority of people will have an element of a tax free lump sum on retirement. They will have the option of that, be they self-employed, propriety directors and those in the public and private sectors. The Government could have examined, say, levying 0.6% of one's retirement fund, one's tax free lump sum. That would take into account the fact that a person could walk away with €500,000 in a tax free cash sum and be able to hive the rest of it into an ARF that will be exempted from the pensions levy, and simply to be taxed on a nominal 5% withdrawal from it every year and to be left with that. The ARFs can pass to a spouse following the death of the retiree, with very few implications in terms of inheritance tax. We are letting that whole sector off the hook completely with this measure. The Minister of State can shake his head but we are. We will push these recommendations on the basis of protecting what is there. At the very least we must protect the expectation that pension scheme members have, particularly those who are closer to retirement. We accept the Minister of State will go ahead with imposing the levy, with which we disagree, but he should not allow the pension scheme trustees to reduce the benefits of existing members in funds.

Senator Cáit Keane: I do not want to speak specifically on the recommendations but to raise the issue concerning ARFs which I brought to the Minister of State's attention yesterday. I am raising a different angle on ARFs, namely, the increase from €12,000 to €18,000 in the minimum amount required for qualification for entry into a fund. Senator O'Brien spoke about those on the upper echelons of the scale who pay into ARFs, but there are people who can only afford the minimum amount of €12,000 to participate in such a fund. They are now being denied access to the ARFs because they cannot afford the €6,000 difference between the current minimum amount of €12,000 and the new increased amount of €18,000 required for entry. Those people would need to have in their pension pot savings of €120,000 to €150,000 to accrue that amount. It is not feasible for them to now join ARFs.

There is also the qualification that contributors would need to leave their money in the fund until they are 75 years of age. If a person was able to afford the €18,000 minimum qualification required for entry to an ARF scheme, he or she would need to freeze €120,000 of their pension benefit until the age of 75. Who, other than the very rich about whom Deputy O'Brien spoke, would want to do that? There are two sectors in ARFs. For example, people such as the ground staff of local authorities who have put their life savings in AVC schemes will decide that they cannot afford to contribute and they will opt out of the fund. Rather than having people opt out of these funds, this requirement should be revisited. The Minister of State, Deputy Hayes, kindly said yesterday that he would come back with a further answer on this point today and I appreciate that.

Senator John Crown: It is fair to say that in the past 20 years careful citizens who wished to make prudent provision for their own future and for that of their families generally followed the careful, conservative advice of serious financial advisers who told them they should invest in two things, namely, their family home and a recognised pension product. Others decided to follow more speculative, casino-like proposals, investing in international property, hotels or

whatever, but careful, prudent people who did not wish to take a wild punt did those two things with any discretionary funds they had left after week-to-week expenses were looked after.

The thrust of a big chunk of Government policy appears to be to penalise people for making those two decisions. One of the penalties will be to impose different forms of taxes on the real estate asset people have. The second one is now to impose an involuntary, unplanned for tax on the moneys which are collected in their pension funds. I wish to suggest an alternative which not only makes greater moral sense but which would raise far more money. I urge the Minister to consider the suggestion and to bring it to the attention of his colleagues on the financial side of the Administration. Rather than imposing an involuntary raid on pension funds, why not look at people who are facing personal catastrophe, those who may lose their home, those with crushing weights of personal debt, not because they made wild investments but because they bought a house. They bought the same kind of house their fathers, mothers and grandparents bought only they had to pay more for it in the highly inflated real estate environment in which they found themselves. Contrary to the canard which is being propagated in *Der Spiegel* and other continental newspapers, it was not a case of wild Irish “Dodge City” dwellers taking the money from careful German hairdressers and investing it in Mercedes cars and foreign property. In general, it was people taking that money because they were advised to do it and buying a house.

The alternative suggestion relates to people who are facing crushing weights of personal debt because they made the prudent decision to buy a house, who at the same time have large amounts of money locked up in pension funds which they cannot access. It appears that approximately 1 million people in this country have private pension funds and the total amount of money held in those funds is about €85 billion. To quote US Senator Dirksen, “A billion here, a billion there and pretty soon you’re talking real money.” I do not say that everyone would make the decision to access 100% of the money they have locked in their pension fund but many people would make the decision to access some of the money if current pension law could be amended to allow for them to get premature access to the money. This is a win-win situation. It would enable people to reduce their level of personal debt, one which in the next few years could result in them not having the luxury of looking forward to their pension coming in but looking forward to being homeless if the bank forecloses or their house is confiscated in response to negative equity. If they could get that money and free up some component of their debt it would help their personal circumstances.

There is a tax liability and a tax benefit associated with making pension investments. Many people who would wish in this emergency to get that premature access would be happy to pay their tax and perhaps pay the tax with some kind of penalty in lieu of the early, premature maturation of the policy. That would give money to the Government which clearly needs it. Every billion raised would be a billion which would not have to be raised in bond markets or bailouts.

In terms of the general thrust of the Finance Bill, which is to improve employment prospects, it is generally recognised that one of the key limitations on employment creation in the country currently is the lack of liquidity which is being made available by banks to entrepreneurs and various other investors who may wish to start businesses.

I put it to the Minister that if people paid off a chunk of their mortgage with the money which was taken from their newly liberated pension funds that money could be designated at bank level for reinvestment in job creation schemes. Rather than incurring possible censure from people who feel they have no control over their pension fund being raided, in a situation that does not appear to be benefitting them particularly but is rather for the common good, something which we all support, this alternative would perhaps allow us to raise more money,

[Senator John Crown.]

make people see where the money was going and provide it to the three categories in society which need it most — the banks, and ultimately the people who will benefit from the loans they would get, the Government, which needs it for public services, and people who are in danger of losing their homes. As far as I am informed, the current estimate is that in excess of 90% of those funds are outside the State. That would be a massive repatriation of Irish wealth at a time when it is urgently needed.

We heard much talk in recent years of good banks and bad banks. Will the Minister consider the possibility of trying to think of some creative scheme that would incentivise some other component of the money which is held overseas to be reinvested in some new national repatriation bank? There are a number of ways of looking at the issue but it would probably require more time than we have in today's debate.

In response to Senator Byrne's earlier admonition that we should all see "The Hangover Part II", I ask if Members have been made aware of the interesting correspondence in *The Irish Times* this week which suggested that "The Hangover Part III" is going to be set in Two Mile Borris. I thank Members for their attention.

Senator Jimmy Harte: I welcome the Minister. I support Senator Crown's idea on having access to the pension fund. Perhaps it could be defined that the money must be used to pay off a mortgage on a private house rather than on speculative investments. I take the Opposition's view on the matter lightly because the reason pensions are being talked about so much today is due to the emphasis that was put on property. Governments in the past 15 years did not try to promote pensions in the same way they promoted property.

Senator Darragh O'Brien: That is not true.

Senator Jimmy Harte: It is true.

Senator Darragh O'Brien: The biggest change in pensions legislation was introduced by the previous Government. That is not true at all.

Senator Jimmy Harte: Senator O'Brien should allow me to finish my point. The buzz word in the country in the past 15 years was that people should buy a house to act as a pension, be it an apartment in Bulgaria or a property anywhere in the world as it would do much better as an investment than any pension fund. I was involved in the insurance brokerage business when pensions were taken out for proper reasons. As Senator Crown indicated, people who were in business put their money away each month. They could work out fairly easily what they would get back, based on a 5% or 8% growth rate. It was a pretty straightforward business until we were told that pensions were only for ordinary people and the real money was to be made in property. That came across. We all know that talk at dinner parties and in bars was about how much one's house or apartment was worth in London or Paris. That is the road we went down and that is what has brought us to the situation where we must talk about taking money from the pension fund.

The Minister referred yesterday to the massive commission earned by investment banks. I agree wholeheartedly. Pension funds and managers make a lot of money. One is talking about half of 0.6% twice a year. We should make them work a bit harder for their money. If I was investing a lot of money directly with an investment banker I would ask him how it was performing and why I am only getting 4% if another fund is getting 5%. Everyone else is taking a hit so there is no reason investment bankers cannot. One can see in the news how investment banks around the world are still making serious money in spite of the collapse of many banks.

That is where the real money is made. Even in this country big salaries are paid to investment bankers not the ordinary teller at the bank desk or the local bank manager. I do not know whether the Government has any influence on pension fund managers in terms of them taking a cut. It is a commercial issue but it is something they should be encouraged to do if not made do.

Anyone in business is currently finding it difficult to put money into their pension. If the 0.6% is taken away from a fund to create jobs it will bring money back into the system which is a good long-term investment. I cannot comprehend the short-term criticism of it. We are not talking about a massive amount of money. It is not being done for the next 20 years. It is being done to stimulate growth. I know many people in business who cannot afford to put any money into their pension because they cannot afford to run their business. They just stopped paying it. Having spoken to insurance brokers who deal in the pensions market, it is clear there has been a massive fall-off in pension retention. Most people in business find it difficult, but many people just stop paying it. Their fund is not growing at any percentage rate because markets are so bad, but in the case of a retailer or any business where liquidity in the market is needed, the only way that can happen is by stimulating job creation. Obviously, the money circulates and then the pension fund matters, but it does not matter if someone is getting 0.6% of a pension fund if there is no fund to speak of. The bottom line is that we must get money back into the system to encourage people to invest in their pensions.

In terms of releasing the flow of credit, the Minister of State may not have been present yesterday when I asked that the issue of the Credit Review Office be examined because it is difficult for people to go to the Credit Review Office after the bank has turned them down. Small business persons say that they need not bother going to the Credit Review Office if the bank has refused them credit. If the process was reversed for a while and small business persons or anyone could go to the Credit Review Office first and get a good report, they could then go to the bank with some encouragement. If I was refused money by the bank, I might decide to give up. Many people in business do not have the energy to go to the bank twice and their business might have closed or been compromised. I ask the Minister of State to examine that because the board of the Credit Review Office is made up of former bankers from all the big banks and perhaps people should get its *imprimatur* first rather than after the bank has refused credit. There is little point in the Credit Review Office agreeing someone should get credit only for the bank to refuse it but the Credit Review Office does not have any powers in that regard. I do not know if that is a runner, so to speak, with the Minister of State or whether a view could be got from the Credit Review Office because, from what I read, it is not too busy at the moment. My suggestion may speed up the process and give a small company some encouragement to go to the bank subsequently rather than the other way around.

I wish the Minister of State good luck with the Bill. Pension funds will always turn around in the long term and 0.6% is not a great percentage. The bigger issue is getting started early, but we did not encourage that. As Senators will be aware, the graph on contributions to pension funds indicates that, if someone starts contributing at the age of 25 or 45, the difference in the fund on retirement is phenomenal. We should encourage people to set up pension funds at an early age and as soon as they are eligible. Even a small amount builds up. The longer one waits, the more difficult it will be and the funds will be so small at the end of the term, they will be worth very little.

Senator Kathryn Reilly: I want to express my opposition to section 4, the central tenet of which is the imposition of a 0.6% pension levy. I will address the amendment shortly. The pension levy is not about burden sharing on an equitable basis. It is deeply inequitable and, because it excludes approved retirement funds used by higher earners to invest in their pen-

[Senator Kathryn Reilly.]

sions, we are opposed to it. It makes no differentiation between the pensions held by ordinary workers — those working on the ground in council yards, for example — and high earners.

Our amendment No. 6 has been ruled out of order but we had said that standardisation of pension tax reliefs at the lower rate would have been a better option for raising revenue for the jobs initiative. Not only would it have removed an unjustifiable inequity in the current system, it would also have generated significant revenue for the State to invest in the much needed economic recovery.

On amendments Nos. 9 and 10, while we are opposed to the levy and to the section, we must ensure that, if this section is enacted, the cost of the fund is absorbed by the fund managers and not passed on to pension holders by way of a reduction in their pension entitlements. We will support amendments Nos. 9 and 10.

Senator Jim Walsh: Some of my remarks relate to the section. The Minister has just come into the Chamber, but it would be fair to say we have covered a wide gambit, not only on the section but on debt forgiveness or debt relief. Some innovative suggestions were made by Senator John Crown with regard to allowing people access their pension fund before pension age to allow them pay off a mortgage, for example, which might be crippling them. There is some merit in that but we must look at the macro picture. In terms of our demographics, we are fortunate that we have a young population compared with other European Union countries, but that will change over time. People are living longer because of health care improvements and, as a consequence, everyone recognises that funding the elderly into the future is a serious issue for the country.

I agree with Senator Crown's point that many people were prudent in putting away their scarce resources to build a fund for their retirement. While that was done, we must recognise that only about half the working population are in a pension scheme. There is a coterie of people who are not in a scheme.

I listened with interest to what Senator Harte said about the fact that the amount is insignificant. I should have declared an interest at the outset that I have a small PPF but that will not influence my remarks. The 0.6% seems small but in terms of the maximum cap that has been put on it now of €2.3 million, if someone is to pay that contribution over the period, on my reckoning it will amount to approximately €56,000, which is €14,000 per year. In terms of what the salary might be to generate that sum, if, say, the person is on €70,000, €80,000 or even €100,000 and he or she has built up this pot, that is the equivalent of a 14% levy on his or her income, which I believe we would all agree is considerable.

There has been much changing of the goalposts with regard to pensions and that uncertainty is undermining the concept of encouraging the population to become involved in providing for their own future. Failure to do that means they will be reliant on the State, but it appears the State will not be in a position to cope with that for some considerable number of decades. Anything that flies in the face of that must be seriously questioned. I am not saying that because the Minister is present. I would have argued against the previous Government bringing in the notional disbursement and taxing a notional disbursement. That was wrong. When it increased from 3% to 5%, it was decided somewhere in the Department of Finance that this was a way of getting a revenue stream. I will outline a solution to the revenue aspect shortly. What it does is take away from people wanting to invest in pensions. That is the opposite direction to the one in which we must travel.

While we are accumulating a great deal of debt now, there is fair criticism that what we are doing is mortgaging the next generation's future. I believe we have a moral responsibility not

to do that and that is the reason I advocate we deal with our problems in our lifetime and try to cut that.

I suggest to the Minister that the exclusion of the public sector from the levy and also people with significant sums in approved retirement funds, as Senator Darragh O'Brien——

An Cathaoirleach: That might be more appropriate to the section. I will let the Senator speak on that on the section.

Senator Jim Walsh: I am about to conclude. While it is being argued that the increase in the pension levy is an imposition on all those of us who work in the public sector, it should be noted our contributions are only between 13% and 15%, approximately, of our salaries. The cost of our pensions is in the order of 42% to 43%. Therefore, we are only contributing a fraction of the overall cost.

Let me outline my solution. I would not have gone near the pension fund. The Government is wrong in this regard and I intend to oppose the section as a consequence. If the Government had applied a 2.5% levy for four years on those who work in the public sector, it would have brought in an equivalent sum of money. This would have been fairer because those who are better paid than many in the private sector — the productive sector — would then be contributing towards the cost on a short-term basis. What the Government has done has created many anomalies, only some of which have been touched on in the House. Some, including the one mentioned by Senator Darragh O'Brien, are important to consider. For example, many employers are shifting from defined benefit to defined contribution schemes. The Government's approach will only encourage this trend, which is not to be welcomed.

Senator Michael D'Arcy: We must remember that the biggest tax relief available in the State has been for pension funds.

Senator Jim Walsh: It is not tax relief but a deferred tax.

Senator Michael D'Arcy: It is up to 40%, which is substantial and has been helpful. It has been helpful in that it has encouraged people to start paying into pension funds in the first instance. A figure of 0.6% is modest. In the 30 to 40 year lifespan of a pension fund, this will not have a very significant impact. Some who may be approaching retirement could be affected more than others, but, unfortunately, that is just the way it is.

I want to touch on what Senator John Crown stated. While it is not relevant to the Bill, I would appreciate it if the Minister and his officials examined in detail the option of exiting pension schemes early. I do not see the point in having a pension fund that is to become available in 15 or 17 years if one loses one's house in the meantime. A little common sense must prevail in such cases. Perhaps this might be considered in the subsequent Bill or the next budget for those in difficulty whose schemes are subject to very strict criteria.

Senator Thomas Byrne: I will not pursue the matter further. Suffice it to say that if Senator Jimmy Harte is concerned about administrators' and managers' charges, he should note the recommendation is an attempt to deal with them. While it may not be properly drafted, we certainly had in mind that one should not be able to cut people's benefits. The Taoiseach said one could talk to the banks or fund managers in the hope they would not pass on the charges, but that is not good enough. The Government can introduce laws to deal with such issues.

Senator David Cullinane: I oppose the section and support the recommendation. I do not agree with previous speakers that private pension holders accept the logic of the levy and see its benefit in terms of jobs. I have spoken to many of them and they are fearful. They are

[Senator David Cullinane.]

fearful because they know private pension funds across the globe have been affected by the crash of recent years. That is the reality. Many are very fearful about what they will get back from their funds when they get older. They have put much hard-earned money into funds and much of it has been lost.

Let me cite, as I did yesterday, the example of the Waterford Crystal workers. They lost almost all of their pensions and are now taking the Government to court because of a failure of the State to implement properly an EU directive that would have afforded some protection with regard to pensions. The directive, as the Minister of State will know, was challenged by the British Government. It was supported at the time by the Irish Government. It compels states to have some insurance protection built into private pension funds. The failure of the Government at the time to implement the directive meant the workers in Waterford Crystal were exposed and lost most of their pensions. Many people with private pensions saw what happened to the Waterford Crystal workers and are wondering what will happen to them. They ask how many more funds are insolvent. There is a very real fear among many private pension holders about the value of their funds. I support the recommendation. While I oppose the levy, the cost should be absorbed by fund managers, not by pension holders for the reasons I have given. The Minister of State needs to appreciate the real fear among private pension holders.

I agree with Senator Jim Walsh that we should not frighten people from investing in private pensions. I support universal pensions and would prefer if all State money went towards supporting public pensions such that the very wealthy could not put huge sums of taxpayers' money into pension funds. We want to see equity across the system.

The Minister ought to be aware of the very real concern and fear that is evident. Anything that adds to that fear is wrong and the levy could have this effect. Many people to whom I have spoken are very concerned about the imposition of the levy and also about their pension funds. Perhaps the Minister of State will refer to this, in addition to the EU directive, which is important.

Senator Darragh O'Brien: Senator Jimmy Harte referred to investment managers and the cost of managing pension funds. Deputy Shane Ross suggested pension fund managers should carry the cost. I would love them to do so if it were feasible. The average cost of managed pension funds, the funds associated with workers' schemes, is 0.75% per annum, as any of the Minister of State's officials would tell him.

More up-market pension funds are complex. There can be a 1% or 1.25% charge, sometimes more, on which people make a decision. Other pension funds have with-profit arrangements. They incur a fund management charge of 0% and the arrangement involves a bid-offer spread between the purchase and valuation price. Therefore, the idea that the pensions industry alone can carry the cost is not correct.

Foreign companies which locate their European headquarters here employ over 5,000 people in Dublin. These are Irish jobs and the staff are normal working people who are contributing to pension schemes. It is valid, however, for the Government to ask pension fund managers to examine the cost of managing funds. I am sure the Minister of State and the Department are aware that in recent years there has been a great contraction in management charges for funds because of the competition in the market. Scheme trustees and companies shop around regularly and switch funds from one fund manager to another on the basis of the management charge and performance. Some funds are managed on the basis of performance alone. In this case, where there is a reduction in the fund in a given year, no management fee is paid. I know of many such arrangements.

It is the responsibility of pension scheme trustees to seek changes to management charges. It is not correct for Senator Jimmy Harte and Deputy Shane Ross to state the cost can be borne by the industry alone. The Minister of State rightly stated he must be aware of taxation measures or reductions and how they affect other sectors. What is good for one sector may not be good for another. If the screw were turned completely on fund managers and pension companies in this city and elsewhere in the country, there would be substantial job losses in the insurance sector among normal workers who are themselves contributing to pension schemes. It is important to put on record that very few funds charge 2% or 1.65% or more, and they usually are the Rolls-Royce type schemes. Normal pension funds charge approximately 0.75% per annum. While I await the Minister of State's imminent response to the many questions raised, this issue must be addressed. Moreover, in the contacts between the Department of Finance and industry representatives such as the Irish Association of Pension Funds and the Irish Insurance Federation, what view did they give on potential payments they could make instead of the levy? What was the industry's view of the fund charges? Did its representatives claim the industry had no cash, was on its uppers or was employing X numbers? As I am sure the Department broached that issue with the industry, the Minister of State should outline its perspective in this regard.

Senator John Gilroy: I will be brief. It has been stated that the art of revenue raising is akin to plucking a goose, with the objective being to get as much down as possible with the least amount of hissing. The Opposition is determined that the goose will hiss loudly and, for the record of the House, I wish to correct one or two of the figures that have been suggested. While I do not like to mention Senator Byrne in his absence, Senator Jim Walsh mentioned sums such as €56,000, as well as €14,000 per year or €9,000 per year. Those figures would be accurate were the levy on the entire pension fund to become available on the amount of money that has been drawn down. It is not accurate to state it is the equivalent of €9,000 per year or €14,000 per year or €56,000——

Senator Jim Walsh: It is.

Senator John Gilroy: No, it is not.

Senator Jim Walsh: I can go through the figures with the Senator.

Senator John Gilroy: I can take the contrary view and can explain to the Senator how these figures are wrong. If the entire 0.6% charge applied over a €2.3 million pension fund became payable on the portion of money that was being drawn down at the time it was being drawn down, then the Senator's figures are correct. However, this, of course, is not the way it will work. The levy is being applied——

Senator Jim Walsh: The pot is €2.3 million. All one needs to do is to calculate 2.4% of that as an example.

Senator John Gilroy: If I may——

An Cathaoirleach: Senator Gilroy, without interruption.

Senator John Gilroy: The 0.6% levy of course will be spread across four years of the entire life of the pension fund and, consequently, the purpose of quoting such figures is to make the goose hiss very loudly indeed.

Deputy Brian Hayes: I understand that recommendations Nos. 9 and 10 are in the name of Senator Byrne. May I respond to them first and then deal with the other issues raised in the context of the section? In dealing specifically with recommendations Nos. 9 and 10——

An Cathaoirleach: The Minister of State may deal with the other issues as part of the debate on the section itself. He should deal with the recommendations first.

Deputy Brian Hayes: I am in the Cathaoirleach's hands. These recommendations seek to deny an insurance company or pension scheme trustees the option to adjust current or future benefits of the pension scheme or contract of assurance to take account of the levy being paid by them. It is up to the trustees and administrators to decide whether and how the levy should be passed on and who should be affected, as well as to what extent, given the particular circumstances of the pension funds or pension plans for which they are responsible. The Minister for Finance has sought to provide, in so far as he can, that where the option to reduce benefits is taken by the trustees of a pension scheme, the imposition of the levy is not carried out in a disproportionate way. The Bill also gives the Revenue Commissioners authority to review any cases where assets are disposed of by administrators or trustees to pay the levy to ensure that any such disposals are in keeping with or are needed to pay the levy. It also gives the Revenue Commissioners oversight authority to review instances in which benefits are adjusted as a result of the payment of the levy to ensure that any such adjustment is made in accordance with the requirements of the levy legislation. The Minister for Finance has made known to pension industry representatives his view that there is scope for the industry to absorb the impact of this temporary levy by way of a reduction in fees and charges made on these schemes. He has written to the industry representatives in this regard and awaits their response.

As Senator O'Brien has observed, however, each individual pension scheme is different and it is a matter for the trustees of each scheme to determine the appropriate manner in which the levy will be paid. The point being made in the legislation is there are many means by which this can be absorbed. In the first instance, for example, a fund could have a good year. The point was made during an earlier part of the debate that 90% of these funds have been invested outside the country and, at one level, that is a good thing given the collapse of property prices and investments in Ireland in recent years. However, the point is that the charge could be absorbed if a fund does well in one particular year. I accept both that there is no standard across-the-board management fee and that the larger the fund, the greater the management fee. At the same time, however, one must be honest in this regard. Those who pay into such funds also are consumers and fundamental questions must be asked about the management fees that have been charged willy-nilly across the pensions industry for a considerable time. While I do not suggest that all funds charge fees of 2% or 1.5% — such a suggestion was made in the other House — and am sure there are many examples of fees of 0.7% or 0.8%, some of this levy can be absorbed if people manage their business. Everyone must do that and the entire objective of the banking restructuring plan is to be able to absorb some additional costs by having a restructuring plan and reducing costs. That is my point regarding the absorption question.

I also wish to respond to the general issue unless the Cathaoirleach wishes——

An Cathaoirleach: We will deal with the recommendations first.

Senator Darragh O'Brien: Specifically on the recommendation, I thank the Minister of State for clarifying his position. It is interesting to note, and I take the Minister of State at his word, that the pensions industry has not responded to correspondence from the Minister for Finance at a point when the Bill is before this House and will be dealt with this week. This is an

indictment of the industry that I find incredible. I should not say “incredible” as I believe it, but from the industry’s perspective it is incredible that its representatives have not responded to correspondence from the Minister with regard to the absorption of some of this levy.

While I will not go back over old ground, the Minister of State made the point for the recommendations themselves in that they remove the retrospection from this tax. Let us call this a tax because that is what it is. This tax is retrospective because it is taxing a value of a fund into which one could have paid over the past 20 or 30 years. The point of the recommendation is that if the Government must go ahead with the levy to pay for the jobs initiative, and it must find money somewhere, it should not crucify those who have been prudent, have made a decision and who have cut their cloth to measure to ensure they have sufficient funds on retirement. Incidentally, it was mentioned that 50% of people do not pay into pensions at all, some because they simply cannot afford to so do and others because they chose not to and opted for other, non-approved products or invested in property and so on.

In respect of management charges, the Minister of State will be aware that in 2002 or shortly thereafter, on foot of the changes in pensions arising from the PRSA legislation, a fee cap under PRSA arrangements of a maximum fund value of 1% was introduced at the time. This had the effect of lowering management charges for existing schemes that were above that. The point is that people who have paid into their schemes, especially on the defined benefits side, have an expectation that they will have a certain percentage of their final salary as a pension for life. This is particularly true for those who are within a year or two of their retirement. The Finance (No. 2) Bill effectively lets the trustees, employers and insurers off the hook. The Government proposes that the Minister will ensure that any impositions or changes will not be disproportionate. However, there is no definition of what that is. There are different categories within different schemes, different types of employees, different types of membership of a scheme and, consequently, this provision is far too loose.

Deputy Brian Hayes: While I understand the point, this is not some centralised Soviet republic in which, through law, the Government effectively can tie the hands of administrators and trustees to such an extent that——

Senator Darragh O’Brien: That sounds like Soviet republics which take people’s savings as well.

Deputy Brian Hayes: My apologies. Maybe I am being a bit dramatic in how this can be applied. The Senator said that this is about retrospection. Let us be honest, this is a temporary tax on the current value of these funds for a number of years.

Senator Jim Walsh: It is a wealth tax.

Deputy Brian Hayes: In 1988, the Members opposite proposed a levy.

Senator Darragh O’Brien: I was in school then.

Deputy Brian Hayes: The Senator’s party proposed a levy for one year.

An Cathaoirleach: I must interrupt the Minister of State, as the Leader has indicated that he may wish to change the Order of Business.

Senator Maurice Cummins: We have ample time to discuss the recommendations, but in deference to the Minister of State I propose that we should extend the time available to 5.30 p.m. to complete all stages.

An Cathaoirleach: Is that agreed? Agreed.

Deputy Brian Hayes: I was just making the point that in 1988 a levy was introduced. In 2002-03, a levy was also introduced, but both those levies were later removed. This is a temporary levy or tax. One of the reasons the Pensions Board has not replied is that, despite all the comment about this 0.6% levy, the bigger issue for the pensions industry is the very point that Senator Reilly referred to earlier — whether people will continue to be able to get tax credits on their pension cover at the marginal rate.

I remember the comments made by the pensions industry before the general election, but I think people could bear the levy. This issue has been blown out of proportion, given that historically there were other levies in place that came to an end. We have given a commitment that this one will come to an end in 2014. It is being introduced for the specific, net purpose of encouraging employment within our domestic economy and getting people back to work. People are being asked to pay a small amount on a current net value asset, which is their pension pot. The Minister and the Government have said that, as set out in the legislation, there are ways in which this matter can be absorbed with a bit of commonsense, particularly concerning pension schemes that are doing well. I understand where the Senator is coming from, but I cannot accept the idea that we can tie the hands of administrators by the imposition of recommendations Nos. 9 and 10 in respect of the specific requirements that would be inserted. For that reason I have to oppose both recommendations.

5 o'clock

Senator Darragh O'Brien: Finally——

An Cathaoirleach: I ask the Senator to be brief because we have had a good debate on these recommendations.

Senator Darragh O'Brien: We have and, in fairness, I do not want to delay the debate any further. The Minister of State made the point as to why the Government should accept these recommendations. He said the pensions should find a way to absorb this fee. If so, why in God's name let them off the hook by stating in the Bill that the Minister can adjust benefits within an existing scheme for people who are due to retire shortly?

Deputy Brian Hayes: The reason is that the Bill gives power and authority to the Revenue Commissioners to review these cases where assets are disposed of. Power currently exists within the Revenue Commissioners to make findings of fact on these matters, which could be beneficial in terms of the full implementation of this measure.

Senator Darragh O'Brien: I am glad to hear that because we might be able to find a way of dealing with this matter. As the Minister of State said, under current legislation the Revenue Commissioners are entitled to review any approved pension schemes, which is fine. They can write to any administrator and say they want to review any schemes, as can the Pensions Board. What therefore will the Revenue Commissioners actually review? Under existing legislation they are able to examine any scheme and tell trustees they have released assets to pay for the levy or have reduced the benefits of a scheme. However, what is the definition of “disproportionate” and how can the Revenue make a finding against a scheme's trustees on that basis?

Deputy Brian Hayes: The Commissioners have significant oversight authority to review instances where benefits are adjusted as a result of the payment of the levy to ensure that such adjustment is made in accordance with the requirement of the levy legislation. That power is already in place for the Commissioners to use at their discretion. That requires a level of public awareness of the role of the Commissioners and of the rights of consumers who pay into these

products. The more cases that are brought to the attention of the Commissioners, the greater the number that can come out of that.

The trustees can reduce the benefits of any member, or class of members, up to the amount of their share of the levy, but not by more. Trustees do not have any obligation under this wording to reduce the benefits of all members by the same amount, though their freedom to be too arbitrary would be constrained by trust law considerations. The Revenue Commissioners have the powers to make these findings where cases are brought to their attention.

Senator Darragh O'Brien: That is useful information, but I must pose a question on the basis of the Minister of State's briefing note. Is he saying that no one member in the scheme can pay more than 0.6% or the equivalent reduction in their entitlements? This is an important point because if that is to be the case, I want clarification on it.

Deputy Brian Hayes: It concerns the assets backing that person's liability.

Senator Darragh O'Brien: That person individually?

Deputy Brian Hayes: Yes.

Senator Jim Walsh: That highlights the real inequity of this measure. It goes back to the point made by Senator Darragh O'Brien at the start of his contribution — that the levy on the portion of somebody who is a relatively new member, quantum wise, will be small. That is because his fund will be small, unlike somebody who is almost at the end of his working life and who may well have shipped considerable losses in the interim. I note Senator Darragh O'Brien's point on defined benefit or contribution schemes, which means that the quantum of money being taken from those people is considerable. I was not aware of that because I thought the application was on the fund itself and therefore it was down to the fund's ability to fund its ongoing liability.

Seeing that the levy was being individualised, was no consideration given to putting a limit below which the levy would not apply? The Government decided some years back that a €5 million fund should be sufficient to meet the requirements of a reasonable standard of living for retirement. There are many private funds, however, with in excess of that amount. Many people used it for tax deferral reasons. It is not tax avoidance, it is tax deferral because they pay their taxes at the end of the day.

Would the Minister of State not agree that in a situation where funds have been so badly hit because of the economic recession and particularly the investment in bank shares — Irish and foreign banks have all taken a major hit — we need incentives and not deterrents for people to invest in pension funds?

An Cathaoirleach: That is outside the remit of the recommendations.

Senator Jim Walsh: It is very much part of the overall debate.

An Cathaoirleach: Please, Senator Walsh, we are dealing with the recommendations. I call an tAire Stáit.

Deputy Brian Hayes: If we limit this at a certain threshold, we are affecting the total yield that can be taken in. The purpose of this measure is to take in a yield, which can allow us to stimulate the economy.

Senator Jim Walsh: Will it be on a percentage, for example?

Deputy Brian Hayes: One could look at any option one wants, but for the purpose of obtaining funds to help job creation we were left with that. The Senator rightly pointed out the different liabilities of a person who has paid in over a long period of years, compared to someone who has only been in the scheme for a short time.

Is the answer to that not that given that the person who has paid in over many years has effectively been given a tax treatment at the marginal rate of 41%,——

Senator Darragh O'Brien: Not all of them.

Deputy Brian Hayes: Let us be fair about this.

Senator Jim Walsh: It is a deferred tax.

Deputy Brian Hayes: Can I reply?

An Cathaoirleach: The Minister of State without interruption.

Deputy Brian Hayes: One of the benefits for the pensions industry is that tax treatment on contributions is at the marginal rate. We all know that. That is one of the reasons there has been rightly a significant amount of money put away.

Those who have contributed over that period have been given a substantial effective tax subsidy by the State as a means of allowing them put money into such a vehicle. The State wants that to happen because we want to ensure that people have some means of income for themselves in their later years. There is clear evidence that we need some certainty in that regard, but we must be fair. If people are given a substantial tax break of 41% over a period of years at the top rate, which last year, as I understand it, was worth approximately €3.5 billion of the €13.5 billion that the Revenue handed out, as against this small imposition of a temporary levy that will be in place for a matter of three or four years at a rate of 0.6%, I would ask them to have a sense of proportion and to be fair about that. One can make any argument one likes for the purposes of dramatic effect, but let us be fair about this.

Senator David Cullinane: Not all pension holders receive the relief at the marginal rate, as the Minister of State is aware.

An Cathaoirleach: We are on the recommendations.

Senator Jim Walsh: On specifically what the Minister of State has said, people who invested, many of them in their earlier years, would have been on the standard rate——

Deputy Brian Hayes: Yes.

Senator Jim Walsh: ——and, as they progressed with their careers, would have gone on to the top rate. In fact, every amount that they put in plus any increase — in this instance, they may well be looking at decreases — will be taxed now at their marginal rate, which, in most instances, will be the top rate of tax. All one is doing is deferring tax. If the Government did not provide that incentive, there would be no reason for anybody to put a penny into pensions because one does not have the control of one's money and the regulations attaching prohibit use of it as one's own asset. It is prescribed as to how one must deal with it. In many instances, people must buy annuities with it, which is one of the great scams. I do not want to open up that debate.

An Cathaoirleach: Neither are we having it on the recommendations.

Senator Darragh O'Brien: I was glad of the Minister of State's clarification on the maximum charge being 0.6% of the assets of a fund. I want to put to bed this idea that in all instances this 0.6% is a small charge and a small imposition. Is it correct that based on the 0.6% charge on an average pension fund of someone who has been contributing to a fund for 30 years plus, he or she could be looking at up to a 9% reduction in retirement values and retirement pension? The charge of 0.6% seems tiny and the Minister of State may say that one can carry that, but I refer to the overall context. For someone who has paid right the way through — I am not going back over the argument — I want him to clarify for the House that it is not merely 0.6% for someone who is nearing or at retirement. I am sure the Minister of State's officials have tables. Could he tell me, based on the average pension fund, the average reduction to a person's retirement annuity? It certainly will be a damn sight more than 0.6%.

Senator Michael D'Arcy: The Minister of State made the point about the benefit of the tax relief available — €3.5 billion out of €13.5 billion of tax reliefs put on Revenue. Also, people have had the benefit of having funds that have the benefit of the tax relief being placed into a management fund that makes profit. The tax relief that the State has given is also increasing in value because the profits are available.

There is this small amount of money, a temporary amount. As I stated earlier, some people will be caught more than others but the State has given the individuals and the industry the opportunity, with the tax relief, to go into a fund, which then makes profit. The individual is getting the tax relief that is increasing in value with the profitability of the fund over decades and then those people also at this stage are having the maximum benefit of decades of accrual of profit. The Opposition is choosing to ignore that also.

Senator Darragh O'Brien: Some 1.5% over 10 years.

(Interruptions).

Deputy Brian Hayes: We are not in a position to make any assessment as to how much this would affect one case against the next. It all would depend on the information in each case.

I heard Senator O'Brien, earlier in the debate and yesterday, state that there could be a 9% reduction in the yield to one individual. No one knows that as a matter of fact.

Senator Darragh O'Brien: A reduction in their pension benefit.

Deputy Brian Hayes: No one knows that. It all would depend on the terms and the circumstances.

On the question of tax relief — I will not go on about this — I made the point about the 41% marginal rate. In fairness to other Senators, not everyone is getting the yield at that. I make the point that pension treatment here is genuinely generously covered under the existing law.

Senator Cullinane wants to get back to the standard rate, according to an earlier recommendation.

Senator David Cullinane: Equality.

Deputy Brian Hayes: One must be consistent about it. If one is saying knock out one and not the other, it is not consistent.

On the question of the funds roll-over,——

Senator Darragh O'Brien: I am not saying that.

Deputy Brian Hayes: —as the funds roll over in the course of their existence this gives income and capital gains exemptions while the fund is accumulating, which is another significant benefit to people who put money away.

Senator Darragh O'Brien: Same as ARFs, which are exempt.

Deputy Brian Hayes: As people exit, there is a tax-free lump sum. Between the marginal rate of tax, the fact that people are not eligible for income and capital gains exemption for the period of the funds rolling over and the lump sum, fair is fair here. In a circumstance where the country is where it is, I regard this as a measured proposal.

I cannot accept recommendations Nos. 9 and 10.

An Cathaoirleach: We have been an hour and a half on those two recommendations. I am putting the question.

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

The Committee divided: Tá, 28; Níl, 10.

Tá

Bacik, Ivana.
Bradford, Paul.
Brennan, Terry.
Burke, Colm.
Clune, Deirdre.
Coghlan, Paul.
Comiskey, Michael.
Conway, Martin.
Cummins, Maurice.
D’Arcy, Michael.
Gilroy, John.
Harte, Jimmy.
Hayden, Aideen.
Heffernan, James.

Henry, Imelda.
Higgins, Lorraine.
Keane, Cáit.
Kelly, John.
Landy, Denis.
Moran, Mary.
Mullins, Michael.
Noone, Catherine.
O'Donnell, Marie-Louise.
O'Keeffe, Susan.
O'Neill, Pat.
Sheahan, Tom.
van Turnhout, Jillian.
Whelan, John.

Níl

Cullinane, David.
Mooney, Paschal.
Ó Clochartaigh, Trevor.
O'Brien, Darragh.
O'Donovan, Denis.

Power, Averil.
Reilly, Kathryn.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Paul Coghlan and Susan O'Keeffe; Níl, Senators Averil Power and Diarmuid Wilson..

Question declared carried.

An Cathaoirleach: As it is now 5.30 p.m., I am required to put the following question in accordance with the order of the Seanad of this day: “That, in respect of each of the sections undisposed of, the section is hereby agreed to in committee, that the Title is hereby agreed to in committee, that the Bill is accordingly reported to the House without recommendation, that Fourth Stage is hereby completed, that the Bill is hereby received for final consideration and that the Bill is hereby returned to the Dáil.”

Question put:

The Seanad divided: Tá, 28; Níl, 11.

Tá

Bacik, Ivana.
Bradford, Paul.
Brennan, Terry.
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Clune, Deirdre.
Coghlan, Paul.
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Higgins, Lorraine.
Keane, Cáit.
Kelly, John.
Landy, Denis.
Moran, Mary.
Mullins, Michael.
Noone, Catherine.
O'Donnell, Marie-Louise.
O'Keeffe, Susan.
O'Neill, Pat.
Sheahan, Tom.
van Turnhout, Jillian.
Whelan, John.

Níl

Byrne, Thomas.
Cullinane, David.
Mooney, Paschal.
Ó Clochartaigh, Trevor.
O'Brien, Darragh.
O'Donovan, Denis.

Power, Averil.
Reilly, Kathryn.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Paul Coghlan and Susan O'Keeffe; Níl, Senators Averil Power and Diarmuid Wilson.

Question declared carried.

An Cathaoirleach: Arising from the omission to vote by Senator Power, who was present in the Chamber, the result of the division as shown on the display board has been amended with the agreement of the tellers on both sides. The amended result will appear in the journal of proceedings.

When is it proposed to sit again?

Senator Maurice Cummins: Next Tuesday at 2.30 p.m.

Adjournment Matters

Local Authority Charges

An Leas-Chathaoirleach: I welcome the Minister of State, Deputy Perry, to the House.

Senator Paul Bradford: I welcome the Minister of State, Deputy Perry, to the House. While my motion requires a response from the Department of the Environment, Community and Local Government, in a sense it is appropriate that the Minister of State is present because he has responsibility for small business and my motion is directed at giving some degree of flexibility to local authorities and their officials to ease the financial plight of small businesses.

[Senator Paul Bradford.]

Cork County Council has approved a motion and has been in contact with the Department of the Environment, Community and Local Government proposing that changes be made to the Valuation Acts to allow a degree of flexibility in the levying of rates. I am advised that under the current Valuation Acts once the valuation level is set, the rate in the pound, as it was called in former days, must be applied on a uniform basis to every commercially rateable property in a particular local authority area. The members of Cork County Council are unanimous in requesting of the Department of the Environment, Community and Local Government that an appropriate amendment be made to the Valuation Acts giving the manager and the councillors discretion to reduce the rates being charged on certain small businesses under certain circumstances.

Members of Cork County Council, along with local authority members throughout the country, are very much aware that small businesses are under very severe financial pressure at present and even a small reduction in the rates being charged would be of great benefit to small hotels and shops, and other small businesses. Apparently the present regulations do not allow for any flexibility. The request addressed by Cork County Council to the Department made it clear that if through a change in the Valuation Acts the councillors were allowed this degree of discretion it would ensure it would be enacted on a cost-neutral basis. There is an acceptance by the councillors that the present rateable valuation system and the rates being levied provide a huge degree of funding for the county. Unfortunately we are not yet in position to provide alternative funding so a deduction of rates for certain businesses and the savings for those businesses must be compensated for in other ways, and this is accepted. This is why Cork County Council requests that the Valuation Acts be changed in circumstances where the reduction in rates would be on a cost-neutral basis.

I believe the request has been made in writing and is being examined by the Department of the Environment, Community and Local Government. As the Minister of State is present wearing his Department of Jobs, Enterprise and Innovation hat and has responsibility for small businesses, I ask him to take a keen interest in this idea from Cork County Council and to liaise with the Minister, Deputy Hogan, to examine whether a degree of assistance and financial relief can be brought to the small business sector which is such a huge employer and is so important to the economic fabric of every community throughout the country.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry):

I thank Senator Bradford for raising this very important issue which does have an impact on small companies. I apologise on behalf of the Minister for the Environment, Community and Local Government, Deputy Hogan, who cannot be present.

Commercial rates income is a very important contribution to the cost of local services provided by local authorities such as roads, public lighting, development control, parks and open spaces. All commercial rates collected in a local authority area are spent exclusively on providing services in that area. The Valuation Act 2001, which sets out the categories of properties that are rateable and not rateable, comes under the remit of my colleague, the Minister for Finance, Deputy Michael Noonan.

Local authorities are under a statutory obligation to levy rates on any property used for commercial purposes in accordance with the details entered in the valuation lists prepared by the independent Commissioner of Valuation under the Valuation Act 2001. The levying and collection of rates are matters for each individual local authority and the setting of the annual rate on valuation, ARV, is a decision taken locally by elected members. Rating law provides

for the making of a single ARV and there is no provision for a different ARV to be applied to different premises.

It should be borne in mind that while varying the ARV for certain businesses might be a boost for those businesses, it is likely to have a negative impact on other ratepayers who would be faced with higher rates bills to make up the shortfall in the local authority's rates income. This would be an unfair approach at a time when many businesses are faced with challenging circumstances. Local authority financing from all sources, including rates, motor tax income, Exchequer funding and local charges, is under pressure at present and it is highly unlikely that a local authority would be able to absorb any shortfall in rates income arising from the introduction of such a proposal. It is also the case that it could be problematic on a general level and could have implications for both state aid and EU competition rules.

The Government is focussed on reducing the costs of doing business to support competitiveness and employment in the economy and to protect the interests of communities. This year and in recent years, the Department of the Environment, Community and Local Government has requested local authorities to exercise restraint in setting commercial rates to support competitiveness in the economy and to protect the interests of communities. Local authorities have responded positively to these requests. Across the 88 local authorities, annual rates on valuation declined by an average of 0.64% from 2010 to 2011.

We are acutely aware of the pressures on small and medium-sized businesses and the challenging economic environment in which many business owners are operating at the present time. While the Minister, Deputy Hogan, has no immediate plans to conduct a review of the rating system generally, he is determined that every avenue will be pursued to optimise efficiency and certain costs in the local government sector. The Minister is also considering proposals in the area of local government rates, charges and supports to enterprise generally to assist small and medium-sized enterprises.

I thank the Senator for raising this very important matter. It is the issue of local charges that impact on the viability of small companies and the Minister is very conscious of this. I assure the Senator that this will be a huge consideration in the review of the efficiencies of local government.

International Agreements

Senator Kathryn Reilly: The Aarhus Convention was signed by Ministers of European countries on 25 June 1998 and came into force in October 2001. It stands on the three pillars of access to information, public participation and access to justice, which are provided for under Articles 4 to 9. The convention aims to strengthen the role of members of the public and environmental organisations through giving them the right to obtain information on the environment, the right to justice in environmental matters and the right to participate in decisions that affect the environment.

There is a growing recognition of the benefits of transparency of decision-making processes and openness of administration to public participation not only in concrete decisions to authorise certain facilities or operations but also in developing draft laws, rules and regulations. Allowing members of the public greater access to environmental information is also considered the best guarantee of the accuracy of data supplied by companies as well as contributing to effective monitoring and compliance enforcement.

The need for legislative and institutional change to fully implement the Aarhus Convention becomes clear when one considers the issues relating to EirGrid, the North-South interconnector and local anti-pylon groups in Cavan, Monaghan and Meath. Access to justice is being

[Senator Kathryn Reilly.]

blocked to communities across these counties by barriers with regard to cost and standing. Principal 10 of the Rio Declaration, which was signed by Ireland in 1992, states that environmental issues are best handled with the participation of all concerned citizens at the relevant level. It also states that effective access to judicial and administrative proceedings, including redress and remedies, shall be provided. However, this is being blatantly and totally disregarded.

The issue of costs with regard to administrative reviews has been and will continue to be a substantial barrier when participants try to present their case on an equal footing with those who have deep pockets. In the absence of the ratification of the Aarhus Convention a serious inequality of arms is evident. The community groups opposed to placing the cables of the North-South interconnector overground had to fundraise extensively to be able to take on EirGrid. Another consultation is pending and these groups, in the absence of a refund of costs, may not be able to challenge EirGrid in it.

The people of the north east raised significant funds to examine acceptable alternatives, particularly putting the cables underground. They never resorted to any activities other than those of dialogue and persuasion based on well-researched evidence. They participated fully with the oral hearing process and at all times behaved in a respectable and professional manner. The blunder by EirGrid on the height of the electricity pylons which forced the firm to sensationally withdraw its planning application for the North-South interconnector this time last year has left local communities with a huge legal bill. It is unacceptable that EirGrid, which through the taxpayers had access to unlimited resources and consulting expertise, could be allowed to submit such a shoddy application then withdraw it and then walk away with no apparent accountability or penalties. This is an injustice.

With EirGrid's non-statutory public consultation process closing tomorrow, this issue is critical. The groups campaigning against the pylons have been left with the legal costs of a botched oral hearing and at a financial disadvantage in the face of another oral hearing. Unless the Aarhus Convention is ratified and the legitimate costs of groups such as the County Monaghan Anti-Pylon Group and North East Pylon Pressure are reimbursed the people of the State will be denied the opportunity to meaningfully participate in oral hearings on environmental matters of deep concern. I urge the Minister to ratify the convention as a matter of priority.

Deputy John Perry: I thank Senator Reilly for raising this very important issue. The Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters was adopted on 25 June 1998. It seeks to ensure that members of the public and their representative organisations can play a full and active role in maintaining and enhancing our environment.

The convention lays down a set of basic rules to promote citizens' involvement in environmental matters and improve enforcement of environmental law.

It has three main pillars: access to environmental information, which includes information on the state of the environment, policies and measures taken, or on the state of human health and safety where this can be affected by the state of the environment; public participation in environmental decision-making, whereby arrangements are to be made by public authorities at national or local level to enable the public affected and environmental non-governmental organisations, NGOs, to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment; and access to justice, which includes the right to access review procedures to challenge the legality of decisions that have been made which may impact on the environment.

The Aarhus Convention goes to the heart of the relationship between people and governments and is about accountability, transparency and responsiveness. Progress towards ratification of the convention is closely aligned with work at EU level and, in that context, the EU has adopted two directives of relevance. These deal with public access to environmental information — Directive 2003/4/EC — and public participation in certain environmental decision-making procedures — Directive 2003/35/EC. Both directives have been fully transposed in Ireland.

The programme for Government commits to completing ratification of the convention. Much of the work required has been completed but there are a number of remaining matters to be addressed before ratification can proceed. My colleague, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, who extends his apologies for being unable to attend, has indicated that the further legislative amendments required will be introduced through the Environment (Miscellaneous Provisions) Bill 2011, currently awaiting Committee Stage in the Dáil. The Senator will be pleased to hear that the amendments concerned were considered by Government earlier this week and, subject to their finalisation by the Office of the Attorney General and their approval by the Dáil, they should be reflected in the Bill when it comes before this House for debate.

The amendments are focused on the need to enhance procedures to ensure members of the public have access to review procedures to challenge breaches of environmental law, and these procedures must be timely, equitable and not prohibitively expensive. This requirement must be balanced with the need to ensure maximum efficiency and value for money in terms of the review mechanisms so as not to place an onerous burden on public funds. The Bill will therefore introduce measures to limit the costs of environmental actions in the courts. It will also change the threshold for seeking leave for judicial review proceedings in certain planning matters, lowering it from the current requirement to have a substantial interest in the matter at hand to a sufficient interest, consistent with the general rules governing judicial review in other areas.

The Department is working closely with the Office of the Attorney General to finalise the legal text of the amendments. When the Bill is enacted, and it is hoped that its passage through the Oireachtas can be completed before the summer recess, the Minister will move as quickly as possible to complete the formal arrangements for the ratification of the convention by the State.

I congratulate the Senator on her election to the House.

Human Rights Issues

Senator Averil Power: I wish to raise the issue of the trials of medical personnel in Bahrain which started last Monday. The Minister of State will be aware that over recent months there has been particularly harsh and violent repression by the Government of Bahrain of the fundamental freedoms of association, expression, religion and speech of its citizens. In March, a large protest took place which was violently crushed. There are pictures on the Internet and gruesome accounts of unarmed protesters among the large crowds being shot in the back of the head in the middle of Manama.

The doctors were detained after the protests simply because they treated injured protesters. The Government claimed that they were seeking to overthrow the authorities but all they were trying to do was their job, as any medical practitioner would do, which is to help anyone who has serious physical injuries. Many human rights groups have stated that the real crime of the doctors was that they were in the hospitals and could bear witness to the brutality that had been unleashed on the protesters. The Government was worried about the fact that they were able to get photographs out from the hospitals showing the condition people were in and bodies in an incredible state lying on the floor.

[Senator Averil Power.]

The trials of 34 doctors and nurses began last Monday. They had been kept in captivity for weeks and were not given access to their lawyers or their families. They told the court that they had been tortured to make confessions. Bravely, these men and women walked out before the court and said that, despite what had been done to them, they would still plead not guilty. Some of the doctors concerned trained in the Royal College of Surgeons in Ireland. Dr. Ali-Alekri, for example, has an Irish-born child who holds an Irish passport from the time he trained here and worked in Temple Street Children's University Hospital. If found guilty, he faces execution in Bahrain simply for doing his job.

The Minister of State will be aware that a motion tabled in the Seanad last week by Senator John Crown, which was agreed by all sides of the House, called for action on this matter. What is the Government doing to raise this issue at EU level? I am aware that conclusions were adopted by the April meeting of the Foreign Affairs Ministers and that the EU raised the issue with the Government of Bahrain in May. Another Council meeting is due to take place next Monday and I am anxious that the Minister for Foreign Affairs and Trade raises it again at that meeting.

What action is the Irish Government taking to raise the matter in the United Nations? These people face execution and the world must act now. It will be too late if the Government of Bahrain carries out its plans to put people to death simply for doing their job as medical practitioners. Has the Irish Government raised this issue directly with the authorities in Bahrain? Perhaps the Irish Government could ask the Irish ambassador to witness the trial or at least facilitate an independent medical delegation doing so. I hope, please God, that the people facing trial will be released. In that case we should consider providing them and their families with asylum in this State.

A number of Irish medical personnel have done an incredible job in the face of a great deal of silence in general among the medical community. Those who are publicly on record on this issue include Professor Damian McCormack, Dr. Ruairi Hanley, who wrote an excellent piece in the *Irish Medical Times*, and Senator John Crown. However, the silence of the Royal College of Surgeons in Ireland, RCSI, has been deeply distressing. The college has huge commercial interests in Bahrain worth €70 million, but it has a moral responsibility to act in defence of one of the basic tenets of medicine, that one treats any patient without discrimination. That is what the doctors were doing in this case. It is a shame on the Royal College of Surgeons in Ireland that it trained people in this country to act by those principles, but when those basic principles of medical practice are challenged in such a violent way in Bahrain, it has been silent. In fact, when the trials started, the RCSI held a conferring ceremony among members of the Bahraini authorities and celebrated its ongoing role in that country. The RCSI has the moral authority to act.

I hope the Government will do everything it can to help these people. We have a general responsibility towards everyone concerned but especially in respect of people who were trained in this country before they returned to Bahrain.

Deputy John Perry: I thank the Senator for raising this important matter and wish her well in her political career. I am pleased to have the opportunity to address the House on the Government's position on the important issue of the detention, torture, intimidation and trials of medical professionals in Bahrain.

The Government has taken a number of urgent steps in response to this worrying situation. First, we have repeatedly and robustly condemned all repressive actions by the Bahraini authorities during and after the recent protests, including those taken against medical staff following

their professional obligations. The Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore, made the Government's position clear in his reply to questions in the Dáil on 2 June when he also expressed serious concerns about the broader human rights situation in Bahrain, particularly the death penalty sentences recently handed down to four protestors. The Government has expressed its grave concern about the quasi-military nature of this trial of civilians, as well as reports that detainees in Bahrain had very limited visits or contact with their families or lawyers since detention; that there have been serious physical and sexual assaults in custody; and that the detainees have been forced to sign confessions and make statements confessing their involvement in crimes. The Bahraini authorities should respect detainees' fundamental rights, including their right to receive visits and have unimpeded access to their lawyers, in line with the country's own constitutional and international obligations.

The Government is taking steps though our ambassador in Riyadh who, by a recent Government decision, is to be accredited also to Bahrain to make our grave concerns known to the Bahraini authorities. We also strongly support action taken by the European Union in this matter. The human rights situation in Bahrain, including the repressive actions taken against medical staff there, was formally raised with the Bahraini authorities in Manama on 15 May. The EU Foreign Affairs Council adopted strong conclusions on 23 May, which I fully support, calling for fair and transparent administration of justice in Bahrain. A further discussion may take place at next Monday's Council in Luxembourg, which we would obviously welcome. Further urgent representations are also likely to be made locally by the European Union in the coming days to express our deep concern about the ongoing trials and to press for international and domestic observers to be allowed to follow the legal proceedings.

The Government has been active in raising this issue at the United Nations, including at the Human Rights Council last week in a national statement. The European Union has also made clear its grave concerns about the situation in Bahrain in the statements it has delivered at the current Human Rights Council session in Geneva. Such statements send a powerful signal of the international community's abhorrence at the repressive actions taken in Bahrain. It is a welcome and positive development that the United States has also joined the European Union and others in expressing deep concerns, about the situation in Bahrain and the case of the detained medics, at the Human Rights Council yesterday.

Bahrain, like other countries in the Middle East and north Africa, is experiencing problems arising from the clear demand of people throughout the region for greater freedom and a greater say in how they are governed. In this regard, it is important that the case of those on trial should not be seen in isolation; rather, it is integrally linked with the wider choices Bahrain faces at this juncture in its history. Genuine dialogue, tolerance and reform are crucial if it is to emerge from its current difficulties. We strongly support those within the Bahraini system who are trying to move towards dialogue and reform rather than repression and injustice. In this context, we welcome King Hamad's announcement that a national dialogue without preconditions will commence on 1 July. We hope this call will be fully supported and acted upon by all in Bahrain. We also welcome King Hamad's ending of the state of emergency on 1 June.

The Government urges the Bahraini authorities to choose the path of justice and reconciliation rather than violence and division in the case of the detained medics and also in Bahrain as a whole. Releasing the medical staff who simply tried to help the wounded, as their profession insists they do and which they did in an entirely peaceful manner, would be an important step in that direction. This is an important matter which I hope will be resolved.

Road Network

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire Stáit, gabhaim comhghairdeas leis as a cheapachán agus go n-éirí an t-ádh leis ina phost nua. Táim ag ardú ceiste a bhaineann le mótarbhealaí agus na tolls atá dhá íoc orthu. Deir ráitis a tháinig amach seachtain nó dhó ó shin ón AA nach bhfuil daoine ag úsáid na mótarbhealaí mar gheall ar na tolls atá ann. Táthar anois ag caint ar dhá toll a chur ar an mbóthar idir Gort Inse Guaire agus Tuaim. An ndéanann sé aon chiall sa lá atá inniu ann go bhfuil muid ag íoc €500,000 in aghaidh na míosa i dtáillí leis na comhlachtaí toll toisc nach bhfuil dóthain tráchta ag dul tríd na dola-dhroichid?

I refer to the logic of charging a toll to use the Gort to Tuam motorway. We heard from the AA during the week that motorists were not using motorways because of the cost involved and that the toll income the State was generating was not enough to pay the companies which had built the motorways. We must pay €500,000 a month in penalties to these companies because the tolls are not generating enough income. It is clear to Sinn Féin that the policy of tolling roads is not working and that the PPP model on which it is built does not work.

Some €500,000 a month is being paid to the private operators of the M3 motorway and the N18 Limerick tunnel. The National Roads Authority, NRA, has confirmed that traffic volumes have fallen short of the guarantees given by the State. The payments amount to an annualised figure of €5.9 million which will be paid because traffic volumes on the two routes have fallen below agreed thresholds. At €5.9 million, this is more than four times the authorities' revenue share from all of its other PPP toll motorways. According to the NRA, traffic volumes have failed to trigger a profit for the State on the toll motorways between Dublin and the cities of Waterford, Cork and Limerick and in the case of one of the two tolls charged on the Dublin to Galway route. Two such toll motorways constructed in the past decade, at a cost of €8 billion, are returning a payment to the State, namely, the M1 and the M4. However, in this case, the combined revenue was €1.47 million in 2010, the latest year for which figures are available.

Commenting on these figures at the weekend, the NRA stated the payments to the operators of the Limerick tunnel and the M3 toll motorway were in line with budget expectations. This shows the utterly flawed nature of PPPs and highlights the folly of Government policy on roads and road tolling. The Government is following the policy of the previous Government which put this arrangement in place. We ask it to revise and rethink this arrangement. The NRA has offered the excuse that most of the losses are borne by the PPP companies, but that misses the point that major amounts of money are being lost to the State because of the Government's road tolling policy.

We regularly hear excuses about the limited financial resources available which we understand and appreciate. Accordingly, the Minister of State will understand our frustration and that of the people when we see such waste. Some €500,000 is being paid to private operators at a time when schools in my constituency are unable to acquire windows and doors to keep out the cold. Some €500,000 is being paid to private operators at a time when the HSE states there will be a shortage of junior doctors and there is not enough money available to pay an operating grant to Galway Airport which forms an essential part of regional infrastructure. This is proof that there is both waste and profligacy. This is the waste we need to eliminate. We do not need to cut essential services and the pay of the least well-off.

Detailed figures reveal that between September and December 2010, the most recent figures available, the subvention paid to the operators of the Limerick tunnel was €1.24 million. The subvention paid in respect of the M3 motorway between October and December of the same year amounted to €547,000. Utilising the revenue raised on the M1 and M4 motorways for the entire year still left a shortfall of €317,000.

Even more worrying are the statements from Plan Better which consist of four groups — An Taisce, Friends of the Earth, Friends of the Irish Environment and FEASTA . The cost of subsidising private operators could rise to €100 million if traffic levels remain static or continue to fall in the coming years. Figures compiled by the group show that traffic on the M3 which runs from Clonee to north of Kells, County Meath, was almost 5,000 vehicles per day below the level at which subsidies must be paid to the Eurolink consortium which built it. Táim ag ardú na ceiste, An ndéanann sé ciall leanacht leis an polasaí seo ó thaobh na PPPs de agus a bheith ag cur tolls ar mhuintir na Gaillimhe de €22 milliún in aghaidh na bliana nuair is léir nach bhfuil an polasaí seo ag oibriú?

Deputy John Perry: I thank the Senator for raising this very important issue and congratulate him on his election to the Seanad. I offer apologies from my colleague, the Minister for Transport, Tourism and Sport, for his inability to make this Adjournment debate. He is currently travelling between Luxembourg where he was attending a meeting of the European Union Transport Ministers and Frankfurt where is due to attend a number of Tourism Ireland promotional events.

In the first instance, I would like to clarify that the Minister for Transport, Tourism and Sport has responsibility for overall policy and funding in regard to the national roads programme. The statutory power to levy tolls on national roads, to make toll by-laws and to enter into toll agreements with private investors in respect of national roads, is vested in the NRA under Part V of the Roads Act 1993, as amended by the Planning and Development Act 2000 and the Roads Act 2007.

To date the main emphasis of tolling policy has been on toll-based public private partnerships, PPPs, for national roads, with tolls being used as part remuneration for private investment. In addition, public tolls are levied on the M50 and Dublin Port tunnel with all revenues being reinvested in the national road network.

Currently there are ten toll schemes in operation on national roads in Ireland. The contracts for the privately-operated toll schemes are commercial agreements between the NRA and the PPP concessionaires concerned. Under the terms of the PPP contracts, a revenue sharing arrangement with the NRA becomes applicable in circumstances where pre-defined traffic thresholds are exceeded. Two PPP contracts, the M3 Clonee-Kells PPP and Limerick tunnel PPP incorporate a traffic guarantee mechanism, the purpose of which within the overall financial package for the project was to enhance the fundability of these projects and obtain competitive funding terms to the benefit of the taxpayer. These contracts were signed in 2007 and 2006, respectively.

In regard to future tolling plans, the national roads traffic management study published recently together with other work being undertaken by the NRA will help inform consideration of future tolling options. However, to date no decisions have been made in relation to future tolling strategy.

Nevertheless, given Ireland's overall financial situation and the restrictions on funding in the years ahead, the introduction of further tolls as a means of generating revenue for road investment needs into the future cannot be ruled out and warrants further serious and detailed consideration. Any future tolling policy is likely to be based on public tolls directly raising revenue rather than on private toll-based investment.

The Senator may wish to note that a number of further PPP roads are currently at tender stage. However, none of these new PPP schemes will be subject to tolling. Rather these are being implemented as unitary payment PPPs, that is by way of annual payments by the NRA

[Deputy John Perry.]

for the duration of the contract. Again, I thank the Senator for raising this important matter. It is an area of consideration for the Government.

Senator Trevor Ó Clochartaigh: I welcome the fact about future roads not having a toll. Will the Minister of State convey our concerns to the Minister? The AA statement basically states that tolls are driving people back onto old roads. That is clogging up towns. People are not using the motorways, which is a serious concern. We need to get people back onto motorways. The best way to do that is to release the tolls.

Deputy John Perry: I will raise the Senator's concerns about this important issue with the Minister. They will be taken into consideration in the future plans for infrastructural development in Ireland.

The Seanad adjourned at 6.25 p.m. until 2.30 p.m. on Tuesday, 21 June 2011.