



DÍOSPÓIREACHTAÍ PARLAIMINTE PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Dé Máirt, 29 Samhain 2011.

[illegible]

SEANAD ÉIREANN

Dé Máirt, 29 Samhain 2011.
Tuesday, 29 November 2011.

Chuaigh an Cathaoirleach i gceannas ar 12.30 p.m.

Paidir.

Prayer.

Business of Seanad

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

The need for the Minister for Health to clarify the reason previously granted motorised transport grant applications (details supplied) are being refused.

I have notice from Senator Martin Conway of the following matter:

The need for the Minister for Health to urgently arrange an occupational therapist to examine a child with autism (details supplied), who has demonstrated enormous and very worrying behavioural changes in recent weeks.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, Road Transport Bill 2011 — Second Stage, to be taken at 4.30 p.m. and conclude not later than 7 p.m., with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed eight minutes and the Minister to be called on to reply to the debate not later than 6.50 p.m. Between 2.30 p.m. and 4.15 p.m. the Seanad Public Consultation Committee will hear presentations from Professor Gerard Quinn of NUI, Galway on the added value of a United Nations convention on the rights of older persons and Professor Rose Anne Kenny of Trinity College Dublin on the relevance of findings from the TILDA study for the rights of older persons. All Senators are invited to be in the Chamber during the course of the afternoon for these presentations.

Senator Darragh O'Brien: There is a glaring omission from today's Order of Business. Last week, I and other colleagues in the Opposition called for a pre-budget debate in the Chamber in which we could have a proper meaningful discussion. At the time I was grateful because the Leader acceded to the request and stated that he would arrange for the Minister of State, Deputy Brian Hayes, to come to the House today for an hour and a half, which would not have been sufficient but would have been a start. When the Order Paper for today was circulated last

[Senator Darragh O'Brien.]

Thursday I noticed the matter was missing from it. I am very disappointed and will move an amendment to the Order of Business that we have a meaningful pre-budget debate and discussion in the House today, as was agreed by the House last week. I will wait to hear the Leader's response to see whether we will push that amendment.

My colleague, Senator Averil Power moved an amendment on the Order of Business last week concerning the residents of Priory Hall. Yesterday, those residents should have been back in their homes but despite the schedule of works agreed with Dublin City Council and the errant developer, they are still out of their homes. It greatly concerns me that the Minister for the Environment, Community and Local Government, Deputy Hogan, has not seen fit to meet these residents. This issue is not specific to Priory Hall. There are many other such apartment blocks, as was borne out yesterday by the general secretary of the national firefighters and paramedics union. The fire service reckons that about 10% of apartments across this country do not meet fire regulatory standards. Only four weeks ago in Swords, close to my own area, we had a issue whereby fire doors were not operational in a building. I ask the Leader to contact the Minister, Deputy Hogan, to meet a delegation of Priory Hall residents. That is the very least he should do as Minister for the Environment, Community and Local Government.

When does the Government propose to fill the vacancy left following the resignation of the former Minister of State, Deputy Willie Penrose? Most of us agree that the portfolio for housing and homelessness is a very important one. It concerns me greatly that over the past two weeks since the Minister of State resigned on 16 November, there has been no one at the Cabinet table fighting for the 5,000 plus homeless people in this country.

Senator Tony Mulcahy: There is a senior Minister in charge.

Senator Darragh O'Brien: Deputy Penrose was the Minister of State with specific responsibility for housing and the homeless. The Government has not moved to fill that vacancy because the Labour Party cannot decide whom they wish to elevate to the high chair at the Cabinet table. That is an outrage and I now hear that the vacancy will not be filled until after budget day. I will be interested to see what the Government proposes for the homeless and for social housing in the budget. There are more than 100,000 people in social housing.

An Cathaoirleach: That is a matter for the Taoiseach. We have no role in that.

Senator Darragh O'Brien: The Leader should ask the Taoiseach therefore. I am disgusted that this portfolio has remained vacant for two weeks. Was this portfolio simply a sop? If the Labour Party could get its act together and decide who will be elevated to the Cabinet table, maybe we could have someone advocating for the homeless at Cabinet level. It is outrageous that this has not been done.

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

Senator Darragh O'Brien: I am asking the Leader to ask the Taoiseach about this matter.

More than four weeks ago, the Minister of State, Deputy Brian Hayes, clearly told us that a mortgage arrears implementation strategy would be published in advance of the budget. Where is it? Is there any legislation from the Government for dealing with mortgage arrears and distressed mortgages? The Minister for Finance, Deputy Noonan, will not even confirm that he will publish it before Christmas.

An Cathaoirleach: The Senator is out of time.

Senator Darragh O'Brien: I may be out of time but this is crucially important.

An Cathaoirleach: I call Senator Bacik.

Senator Darragh O'Brien: I urged Members on the Government side to hold to one promise they made to those with distressed mortgages and mortgage arrears, but they have done nothing in that period.

Senator Ivana Bacik: Senator O'Brien should know better than to speak about broken promises from his side of the House.

Senator Darragh O'Brien: Senator Bacik is doing extremely well.

Senator Michael Comiskey: Does she want the list? Was she watching Prime Time last night? Her support base is slipping.

An Cathaoirleach: Senator Bacik without interruption.

Senator Ivana Bacik: I sat politely and listened with courtesy to what Senator O'Brien had to say.

Senator Darragh O'Brien: She has not answered the questions that I raised.

Senator Ivana Bacik: If I could be permitted to speak I would answer Senator O'Brien. I gave him a very full answer in my response to the Order of Business on Thursday concerning the Government's strategy on mortgage arrears. As Senator O'Brien knows, the Government is currently undertaking a consultation process due to be completed at the end of November.

Senator Darragh O'Brien: Where is the mortgage arrears implementation strategy?

Senator Ivana Bacik: Clearly I am not being allowed to respond.

Senator Darragh O'Brien: Where is the Minister of State for housing?

An Cathaoirleach: Senator Bacik without interruption, please.

Senator Ivana Bacik: I gave Senator O'Brien a clear outline of the Government's current strategy which, as he knows, is to engage in consultation. As I told him on Thursday, this is with a view to moving ahead on a pilot programme involving 500 households.

Senator Darragh O'Brien: Why did the Minister of State, Deputy Hayes, tell us this would be published before the budget?

An Cathaoirleach: Senator Bacik without interruption, please.

Senator Ivana Bacik: I told him this.

Senator Darragh O'Brien: The Minister of State at the Department of Finance said this would be published before the budget.

An Cathaoirleach: Can Senator O'Brien please allow Senator Bacik to speak?

Senator Ivana Bacik: The consultation process is to be completed at the end of this month and the Government will then proceed to publish the strategy. Senator O'Brien can rest assured that there is no shortage of advocates at the Cabinet table on behalf of those struggling with mortgage difficulties.

Senator Darragh O'Brien: The Government is short a Minister.

Senator Ivana Bacik: A great deal more concern has been shown and a great deal more practical steps have been taken by this Government than were ever taken by the Senator's government.

Senator Maurice Cummins: They did not pay the bills.

Senator Ivana Bacik: If Senator O'Brien's government had dealt better with the bills it had we might not be in the mess we are in.

Senator Darragh O'Brien: The Government should appoint Deputy Róisín Shortall and be done with it. They should fill the vacancy at Cabinet and stop jabbering.

An Cathaoirleach: Please allow Senator Bacik to continue.

Senator Ivana Bacik: I commend the Leader and the PCC's public consultation process we undertook on Thursday. Nine different groups addressed us to advocate the rights of older people. It was an instructive and enlightening process. We have moved ahead hugely in terms of knowledge about what is required. We heard a great deal about the draft UN convention and the various needs of older people. It is an important part of Seanad reform to engage in this process, not only by having guest speakers like Mary Robinson, who was inspirational last Thursday, but to engage in public consultation with groups, such as the experts with whom we will engage this afternoon. I urge Senators to come in and listen to Professor Gerard Quinn and Professor Roseanne Kenny who are noted leading experts on the rights of older people. It will be an excellent session.

I support others who have called for a debate in the new year on domestic violence. We are in the fifth day of the Women's Aid "One in Five Women" national campaign. This morning I had the privilege of launching a report by the Sonas housing association, entitled "A Safe Space", co-authored by Ms Monica O'Connor and Ms Jane Pillinger. The report calls for the establishment of a women's refuge in the Dún Laoghaire-Rathdown area, which is currently without a full-time refuge. The report has found seriously inadequate provision of refuge spaces in the Dublin area and across the country generally.

Senator Katherine Zappone: Last week, Senator Leyden acknowledged the start of the Women's Aid 16 days of action opposing violence against women, which Senator Bacik has just mentioned. This campaign, which highlights the fact that one in five women experience domestic violence, runs until Human Rights day on 10 December.

Our economic crisis affects everyone but none more so than our most vulnerable. Safe Ireland has identified a 43% increase in the number of women accessing its services over the past three years. Financial pressures and stress exacerbate what might already be a difficult home life for many people. Women who in the past may have had access to their own money that might have enabled them to leave violent situations, no longer have such funds available to them. Figures show that on more than 3,000 occasions last year services were unable to accommodate women and their children because a refuge was full or because there was no refuge in the area. Therefore, what Senator Bacik referred to is so important.

Funding to deal with domestic violence has been cut year on year for the past three years and some organisations have had their core funding removed. There has been an 11% cut in frontline service funding nationally over the past three years and the north-east has experienced a 35% cut over that period. As the need goes up, the money goes down. The reality of these

cuts to statutory agencies and other service providers is that women and children must remain living in volatile, violent situations where their safety is at risk in their own homes.

We are all aware of the context of the budget and austerity measures, but the questions we must ask when making decisions about cuts in frontline services are: first of all, are we cutting the administrative fat, if there is any; or are we cutting the actual services which may result in harm being caused to our most vulnerable people? Second, has the Government undertaken an impact analysis of the cuts in this area to ensure that the lives of people will not be at greater risk? If and when we get the Minister of State, Deputy Brian Hayes, into the Chamber these are the questions I will ask. I want to support Senator O'Brien's request in that regard.

Senator Leyden called on us to mark the 16 days of action opposing violence against women, while Senator Bacik has sought such a debate and I support their calls. To achieve clarity on this issue, perhaps we should invite the Minister Health to attend the House as he has responsibility for funding the sector. He might also be able to deal with crossover issues such as those concerning the national strategy on domestic and gender-based violence, which comes under the remit of the Department of Justice and Equality. Yet it also has relevance for the Minister for Health because, as the strategy identifies, one of its high-level goals is to deliver effective and consistent services to those affected.

Senator David Norris: I share the concern expressed by Senator O'Brien about the absence of any person nominated to the position of Minister of State responsible for housing and tackling homelessness. That problem is deteriorating and there is no doubt there will be deaths again this winter as a result of homelessness, particularly if we have the severe weather we had last year. The Government's response has not been satisfactory at all. I am sure other colleagues will have heard Ms Alice Leahy, a very remarkable woman, on the radio this morning. She indicated that in the past the Government transferred responsibility for many of these problems to religious orders, with unfortunate results in some cases. She argued that it is time for the State to step up to the plate and take clear and direct action, but it has not done so, which is a reproach to all of us.

I will also refer to a matter I raised last week, the question of some degree of investigation into the media. This is appropriate and it is not sufficient to confine the debate to the appalling case involving Fr. Reynolds, whose reputation was completely traduced. There is always a danger, particularly with people who put themselves forward from their private lives, of being punished for making these kinds of requests. That has happened to me and it may well start happening again. I was the focus of some comments in some of the Sunday newspapers and in one article a lady journalist suggested I was simply looking for an investigation into the medium that focuses on the lives of powerful persons like myself.

This is not the case at all and I have consistently raised the cases of ordinary anonymous citizens whose lives have been invaded and destroyed, and in recent days I have contacted a number of the people whose cases I raised. They all told me they would give me secretarial support but they do not want their names mentioned. The ordinary people of the country are terrified of what is being done. The editorial in *The Sunday Times* related lies about me before and I received a grovelling apology from the editor, although he did not see fit to publish it in his newspaper. He published a correction and then left the material on the Internet.

An Cathaoirleach: Is there a question for the Leader?

Senator David Norris: This goes back to the well known Murdoch cliché about sausages, in that people who like sausages might not like them quite so much if they saw the process by which they are made. That is very insulting to the public as there is an insinuation that the

[Senator David Norris.]

Murdoch media regards them as pigs, which can be disposed of and turned into sausages. There is a remarkable——

An Cathaoirleach: Is there a question for the Leader?

Senator David Norris: I am asking for a general examination of the media. An editorial from last weekend argues that it is improbable that the public's hunger for intrusive personal knowledge will diminish. That is exactly right and I am well aware of it. A couple of Sundays ago I was in my local newsagents and saw a woman coming hot from the church who bought a newspaper, the front page of which reported on a woman having sex with a dog. There is an interest. Public interest is not just what the public is interested in. The public may well be interested in filth and seedy details of people's private lives but it is not always in the public interest to publish these, and a good editor should know the difference.

Senator Paul Bradford: I agree with everything said by Senator Norris and I look forward to the debate being ventilated much more strongly in the House and among the broader community. I ask the Leader for a debate on the Croke Park agreement at the earliest possible opportunity. I hope that such a debate can be commenced before the Christmas recess. Ministers are currently attempting to finalise the Budget Statement for next week and it is fair to say that to a large extent their hands are tied by the provisions of the Croke Park agreement.

If we are to debate the Croke Park agreement in this House, we should not follow a “tear up the agreement” pattern because we know life is not as easy as that. There are certain elements, terms and conditions within the Croke Park agreement which are unreasonable and cannot remain in the current economic climate where we are absolutely beholden to the IMF-EU programme. We were told 12 months ago, when the IMF arrived in the country, that everything was on the table for renegotiation. I read with interest at the weekend the result of an *Irish Examiner* survey which indicated that the Irish public — which is always much more mature and further ahead than the body politic — accepts that we must work within the terms of the agreement. In that spirit of public common sense we need to revisit, where possible and practical, some of the Croke Park agreement to ensure this country can regain its economic sovereignty at the earliest possible date.

I am asking for a mature, open and frank debate on the Croke Park agreement. In the current economic climate, what was agreed and thought feasible and desirable 12 months ago is no longer as practical and acceptable as it may have been. We must all live in the new economic order and cut our cloth accordingly. That is why matters such as the Croke Park agreement must be up for consideration. We should start the debate in this House. It does not have to be a Punch and Judy show and this House is at its best when people make common sense suggestions in a bipartisan and friendly fashion, bringing forward constructive suggestions rather than party political propaganda. It is the ideal House in which to start a debate on the Croke Park agreement.

Senator Diarmuid Wilson: Last Friday the Chief of Staff of the Army visited Dún Uí Néill barracks in Cavan town, one of the barracks proposed for closure by the Minister for Defence. It is due to close at the end of March next year. During his visit the Army Chief of Staff requested that a delegation of Army spouses hold a meeting with him, and six spouses attended at the entrance to Dún Uí Néill barracks. One of these was told she would not be admitted and when she questioned this, an officer replied that it was because she is a Fianna Fáil county councillor. She would not be allowed on the delegation as a result. That woman has had a close association with the Army for over 40 years and is married to a former Army sergeant. She has two sons currently serving in the Army. She was made to stand outside the barrier at the

entrance to Dún Uí Néill barracks for an hour and 43 minutes last Friday because she was not deemed suitable to attend as part of a delegation to meet the Chief of Staff because she is a Fianna Fáil county councillor.

Who gave that direction for the woman not to be admitted? Was it the officer who delivered the message and quite clearly told her she was not being allowed into the barracks because she is a councillor? Was it the Chief of Staff or was it the Minister for Defence who gave the direction that this woman should not be admitted to the barracks? She has been a good advocate down through the years for Army personnel based in Cavan and throughout the country. Will the Leader use his good offices to find out who gave the direction preventing her from attending that delegation, leaving her standing for over an hour and 43 minutes in the rain outside the barrier at the entrance to the barracks last Friday morning? She had no car in which to leave and had to wait for the others to come out of the barracks.

Senator Jimmy Harte: Perhaps this issue is more suited to the Adjournment. Yesterday I met a cardiologist, Dr. Santhosh David, in Letterkenny General Hospital, and he is one of the best in the country.

He gave me a printout from the Royal College of Physicians of Ireland on the acute coronary syndrome programme. Every county is shaded in except Donegal, which means that patients who need the service require more time to travel the extra distance to the centres in Galway, Dublin or Cork that deal with acute coronary problems. The map provided by the Health Service Executive through the Royal College of Physicians of Ireland covers every county except Donegal. Dr. David, the cardiologist in Letterkenny, queried that at the conference but the response of the Health Service Executive was that Derry would look after Donegal, which is totally impractical. I seek the advice of the Leader or the Cathaoirleach on whether I should raise the matter on the Adjournment or call on the Minister to come to the House to explain why Donegal is not included. I will e-mail the map to all Members for their consideration. It is a problem throughout the country.

1 o'clock

We heard advertisements recently on the prevalence of heart attacks and strokes. I have had the experience of having a stent put in, therefore I know the importance of cardiologists and nursing staff and the good work they do. An explanation should be given as to why Donegal is not included on the map at this stage. I will take the advice of the Leader or Cathaoirleach on whether the Minister will be asked to come to the House or whether to raise the matter on the Adjournment.

Senator John Crown: Some rather disturbing figures were presented over the weekend which showed that in terms of international survival rates for cancer in the OECD — the group of economically developed nations — this country is faring badly and is anchored close to the bottom of the list. It is at the bottom of the list for some types of cancer. It is being suggested that this may be due to a relatively slow penetration of the practice of screening healthy people for cancer in the Irish population. That may well have something to do with it. People should be aware that the most intensely screened country in the world is the United Kingdom and it was just above us in the low pecking order. Of the large countries with developed medical systems, the British traditionally have the poorest cancer survivals.

We have heard much about the improvements in cancer survival, which have undoubtedly occurred in the past ten to 15 years, but they have improved everywhere. We have not come up the pecking order compared to where we were, or if we have it is only to a minimal extent. I would like the Leader to ask the Minister for Health to clarify the current and future policy with respect to the one area of cancer care where we had a relatively progressive regimen in this country, namely, access to cancer drugs. Historically, this country has had rather good

[Senator John Crown.]

access to drugs. The access was limited by the desperate shortage of specialists to give the drugs, but in terms of the policy for prescribing them, we had a much more liberal regime than in the UK, which I would describe as barbaric. The entity in the UK which rations cancer drugs is a group with the rather Orwellian sounding name, NICE, the National Institute of Clinical Excellence. I once said that when the history of the war on cancer is written NICE would be considered war criminals. I fear that the same philosophy of rather brainless rationing of cancer drugs without thinking through some of the subtleties of the economics involved is starting to creep into this country. It is with respect to this that I would ask the Leader to clarify with the Minister whether there is a change brewing in respect of access to cancer drugs. I have heard that a list of ten cancer drugs has been provided by the National Cancer Control Programme, NCCP, to oncology pharmacies and that under new rules those drugs will only be approved for individual patients by the NCCP. I see this as the first step towards the institution of a similar rationing organisation here.

Will the Leader ask the Minister to give us a categorical guarantee that there will be no rationing of cancer drugs as long as one cent is spent by the Health Service Executive, the Department of Health and the National Cancer Control Programme on public relations contracts and press secretaries? In my scale of priorities when such staff are all fired and all of those contracts are cancelled and if we are down past the fat into the bone and muscle of the cancer treatment services then we can negotiate about cutting access to cancer drugs.

As the Government is planning the final stages of the budget I again ask it, through the Leader, to consider something which was suggested by me in this House on several occasions, which I believe would save a great deal of money for the health service — my colleague, Senator White, feels strongly about it as well — namely, to end the practice of mandatory retirement, taking people who wish to work, to contribute and pay tax and forcing them to become dependent on the State.

Is there any way the Leader could ask the Minister for Finance and the Minister for Public Expenditure and Reform whether they would consider amending pension law for Oireachtas Members so that nobody can claim an Oireachtas pension until he or she has either reached the age of 65 or unless he or she has had——

Senator Ivana Bacik: It is in already in place, since 2007.

Senator Darragh O'Brien: It is already in existence.

Senator John Crown: ——30 years of continuous service.

Senator Tom Sheahan: I agree with everything Senator Bradford has said on the Croke Park agreement. It appears that everything is on the table except the Croke Park agreement. I call for this debate in light of discussions I had recently with a senior manager in the public service who told me that if he had the power or the wherewithal to get rid of people out of the service as he chose, he could get rid of 20% of those who worked under him in his Department and increase productivity. That is a strong statement for a senior manager in the public service to make; that if he was allowed to get rid of those who were surplus to requirements, he could increase productivity.

I ask the Leader to explore the possibility of inviting the Minister for Agriculture, Food and the Marine, Deputy Coveney, to debate the ongoing negotiations on the Common Fisheries Policy. The Minister is battling on our behalf at present but the tides are coming strongly against him. The House should give him any help it can. The issue should be debated. We must copperfasten what we have and maintain it if increases in quota are not achievable. Will the

Leader also ask the Minister when the “O’Keeffe” Bill — our former colleague, Mr. Jim O’Keeffe proposed a Bill on the introduction of administrative rather than criminal sanctions for fishermen — will be introduced?

Senator David Cullinane: I join Senator Darragh O’Brien in asking the Leader why the debate on pre-budget alternatives is not scheduled for today, tomorrow or Thursday. The Leader indicated last week that time would be provided. In tandem with Senator O’Brien, I await his response.

I raise with the Leader the retail sales index figures which were published yesterday, which show that apart from the motor trade the volume of business reduced in October by 0.2%. Over the past year the volume of trade has reduced by 3.8%. Over the past four years we have lost 55,000 retail jobs with an additional 40,000 retail jobs in jeopardy. I sought a proper, constructive debate on the retail sector on two occasions last week. It is a sector that is struggling. It has been hit hardest because of the recession because so many have lost their jobs and so many pay packets have been taken out of the local economy. I met with the chamber of commerce in Waterford yesterday. Chambers Ireland and many business advocate groups are concerned about the impact of the recession on many small retailers. They are also concerned about the potential 2% VAT increase and the impact that will have.

There were calls last week by a number of Senators on the need to buy Irish. There is a real need for us to have a proper discussion and debate in this House on the retail sector and its future and for us to hear practical proposals.

To finish on a positive note, I join in Senator Bradford’s call for constructive debate in this House. I pay tribute to the Leader on the Seanad Public Consultation Committee meetings that took place last week and this week. It is a new departure. When we call for debates on important issues it should not simply be about Ministers coming to the House; we should be able to do work ourselves. For example, the committee had a discussion on older people. Through that structure we could bring forward papers, practical proposals and action plans that could go to the Government. We could do the same on the economy and the retail sector. This is a valuable opportunity for the Seanad and I hope the Leader and the Chairman of the Seanad Public Consultation Committee will listen to the calls being made on a range of issues and use the committee which could provide an opportunity to bring in organisations representing the retail sector and listen to what they are saying. I have spoken to many retailers in Waterford who are working for less than the minimum wage simply to keep their shops open and people in employment. The difficulties in the retail sector need to be debated in the House in which positive and constructive proposals from all groupings and parties could be put on the table and some hope offered to people who are struggling.

Senator Colm Burke: The issue of access to funding for research and development should be debated in the House. Are we using all of the available opportunities to access this funding? A proposal for the sharing of information across member states is on the European Commission’s agenda for 2012. There is also a proposal regarding researchers from countries outside the European Union. More than 80% of those involved in research outside the Union end up working in the United States and do not come to Europe. We need to change the legislation in this area. In Ireland we produce many graduates, but we allow many opportunities to go out the door. It would be appropriate to have a debate on this issue and for the Minister to outline how we could further improve access to research funding and make sure we use every possible opportunity to carry out research. The net long-term benefit would be the creation of employment in industry. I, therefore, ask for a debate on this matter in the near future.

Senator Terry Leyden: I second the motion proposed by the leader of Fianna Fáil in the Seanad.

I call on the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, to intervene in the dispute between fire fighters and Roscommon County Council. Twenty five fire fighters have been suspended and the issue has been referred to the Labour Court, having been with the Labour Relations Commission, where the hearing was adjourned on 25 November.

An Cathaoirleach: That matter was raised on the Adjournment last week.

Senator Terry Leyden: It has not been resolved. The position in Roscommon is very serious. The people have been left without a 24 hour, seven day accident and emergency service at Roscommon County Hospital and we are now being left without emergency services on the same basis. The fire service provides an excellent service in County Roscommon. No other county would tolerate being left without such a service. I call on all those involved, including the chief executive of Roscommon County Council, to reinstate the men immediately and negotiate a settlement of the dispute. It seems illogical that the chief executive of a county council would suspend 25 or 27 fire fighters. There is a danger of floods in several areas of County Roscommon, in which event we would have to rely on the Army or the fire services in adjoining counties which must deal with difficulties in their own counties. I ask the Leader to call on the Minister to intervene in the dispute. The Minister is responsible for local government and in charge of the fire service. We have no Minister of State with responsibility for housing or any other purpose. I, therefore, ask the Minister intervene in that regard. I also ask the Seanad to call on the chief executive of Roscommon County Council to reinstate the 27 fire fighters with immediate effect, pending a resolution of the dispute in the Labour Court in the near future.

Senator Michael Mullins: I wish to ensure that when we make bad decisions, we do not repeat them. I speak in the light of the recent scrapping of the decentralisation plan of the previous Government. I ask the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, to come into the House to give details of the cost to the State of that foolhardy and over-ambitious plan. How much land does the State own? What did it pay for it? What buildings do we own and what did we pay for them? What is the current value of these assets? What plans does the Government have for them? Are there any community purposes for which they could be made available?

An Cathaoirleach: The Senator may raise those matters during the debate.

Senator Michael Mullins: I know that, a Chathaoirligh. We need to analyse the overall cost to the State of the plan in order that no future Government of any hue will expose taxpayers to such an over-ambitious, foolhardy and costly exercise. It was a huge waste of money and someone needs to be held to account for what happened. It was a deliberate plan to buy an election. Taxpayers are paying a very high price for that foolhardy exercise. I ask the Leader to arrange for the Minister to come to the House for a discussion on the plan and where we go from here.

Senator Feargal Quinn: I support Senator John Crown in asking that the Government not reduce the cancer drug project, even by one cent, while a single cent is being spent on public relations officers in any aspect of the health service. A former Minister for Health told me she could not believe that every time one of the health quangos wanted to meet her the appointment was made by a public relations officer paid by the quango. There were, apparently, dozens

of them throughout the country. I, therefore, support Senator John Crown's call entirely. Public relations officers and lobbyists are being use when we should have direct access to a Minister or a Department.

The Minister for Social Protection addressed the Seanad recently about her plans to have the first four weeks of sickness benefit paid for by the employer rather than by the State. One of the proposals made in the Seanad connects with what Senator David Cullinane said. It was that the measure should not apply to small companies employing fewer than ten people. That proposal makes a great deal of sense. We want to create jobs, establish start-up companies and help people who have a concept and want to start a business. Such persons should not be bound by the regulations and red tape applying to big businesses. These regulations are a huge deterrent to someone who wants to start a business, employ people and get off the ground. Today the Secretary of State for Business, Innovation and Skills in the United Kingdom, Dr. Vince Cable, will launch a report which recommends that businesses employing fewer than ten people not be subject to the same regulations that apply to bigger businesses. That is something from which we could learn. It is certainly something to which we should give serious thought. If we are to establish businesses, they will come from that area.

Senator John Crown is reminding me to say charities and not-for-profit agencies should be exempt from the proposed ban on the use of public relations officers.

We could learn a huge amount from the optimism of those who set up small businesses. That is from where future growth and employment will come. While we should continue to seek foreign direct investment, success in the future will come from people who say, "I would like to set up a business myself." If the regulations applying to big businesses are applied to small ones, it is highly unlikely they will get off the ground.

Senator Catherine Noone: I join Senator Paul Bradford and the other Senators who spoke about the Croke Park agreement. As the parameters have changed, we must have a discussion on this matter. There is no better place to have that discussion than in this House. I urge the Leader to do what he can in that regard in the short term.

I join Senator Michael Mullins in his comments on decentralisation. We knew it was crazy at the time, but we must make the best of the situation in which we find ourselves. In a way, we have our own NAMA stock of properties around the country with which, it would appear, we can afford to do nothing. We should discuss this issue soon in this House with a view to deciding on some way to use these properties if we are not going to go ahead with phase two of the decentralisation plans in most towns. We must offload these properties or do whatever is necessary in order to create some good from the bad situation we have had to deal with.

I also wish to raise an issue that has been on my mind and which will arise again in the new year. This may seem a small issue, but the Grand Canal Theatre will be called the Bord Gáis Energy Theatre from March 2012. I find this unacceptable.

An Cathaoirleach: That is a matter the Senator could put down as an Adjournment matter.

Senator Catherine Noone: I think I will, but I would like to finish what I am saying. One would wonder whether hard-pressed gas bill payers will be happy about increases in their bills in the context of the amount of money that will be handed over——

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

Senator Catherine Noone: A number of issues are raised here on the Order of Business that are not relevant. This is something that is very important. It is one of our main theatres and we are now going down the road of the Aviva Stadium and all of that.

An Cathaoirleach: It is a private theatre.

Senator Thomas Byrne: It is a public company involved.

Senator Catherine Noone: I appreciate the Cathaoirleach's comments and will raise the issue on the Adjournment.

Senator Paschal Mooney: I must agree with the Cathaoirleach. There is a certain element of theatre about that sort of contribution on the Order of Business.

It is somewhat revealing that two members of the Fine Gael Party have more or less criticised the concept of decentralisation. Am I to take it therefore that the Fine Gael Party is opposed to the concept of decentralisation? More than 5,000 people decentralised out of Dublin as a result of the decentralisation concept, but I would be the first to concede that there were flaws inherent in the concept and would welcome the suggestion——

Senator Tom Sheahan: It goes back to the economics.

An Cathaoirleach: Senator Mooney, without interruption, please.

Senator Paschal Mooney: With respect, tell that to the 5,000 plus people who have spread around the country and who contribute to the local economy in the various areas, including in my county where in excess of 100 people are in the Department of Social Protection in Carrick-on-Shannon as a result of decentralisation. The current Government stopped further decentralisation and prevented a further increase in the numbers in a building that is already there. Let us get real about the issue.

Senator Catherine Noone: That is part of the problem.

Senator Paschal Mooney: I would be very happy if Fine Gael organised a cost-benefit analysis and benchmarked that against what has been suggested. Perhaps Senator Mullins is not wrong about the valuations relating to property, but decentralisation should be benchmarked against the social and economic contribution it has made to rural Ireland. Decentralisation has been as much about that as about anything else. The Senator is treading on very thin ice here. He should go back to his constituents and tell them he is not in favour of decentralisation and tell the people who have decentralised that——

Senator Michael Mullins: They never believed it was going to happen anyway or that anybody was coming. It was pie in the sky

Senator Paschal Mooney: The facts are there. I said I would welcome a cost-benefit analysis. Let us see what comes out of that.

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

Senator Paschal Mooney: Owing to the continuing internal navel gazing we are going on with because of the serious situation in which we find ourselves, we somehow seem to have forgotten about human rights abuses taking place across the world. This House has a very proud record of highlighting human rights abuse and Senator Norris and others have highlighted these issues on many occasions. In recent days, the United Nations has published a report on human rights abuses in Syria. It has concluded that over 250 innocent people have been killed, including a two year old girl who was shot by one of Assad's thugs who was quoted as saying that it would prevent her from growing up to become a demonstrator. Would the Leader agree that in light of the various requests that have been made for the Minister for Foreign Affairs and

Trade to come to this House, this is an opportunity for this House to highlight once again human rights abuses in a country that seems to be flying in the face not only of the United Nations and world opinion but also of the Arab League? Syria continues to defy international sentiment to stop the violence.

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

Senator Paschal Mooney: I raise this issue because sometimes those outside of the House who do not have a voice need to be given one. I ask the Leader to give serious consideration to giving Government time to statements on foreign affairs that will embrace the United Nations report and the entire Middle East, where there is continuing political ferment and evolution in which this House and the people have an interest. If this cannot be done before Christmas, it should certainly happen immediately afterwards

Senator John Gilroy: This morning, the National Advisory Committee on Drugs published a report entitled *The Potency of THC in Cannabis Products*. One of the main findings of this report shows that illegally grown cannabis in Ireland contains higher concentrations of the psychoactive element than imported illegal drugs. I call for a debate on this issue. It is important that those people who promote the use of cannabis, including people in the Dáil who promote it as a harmless or fun activity, read this report and before making further irresponsible contributions, take advice from the experts. This advice indicates that increased concentrated levels are associated with a higher incidence of addiction, mental illness and suicide. Those people who promote cannabis use would do well to factor this into their argument before speaking in public.

Senator Thomas Byrne: I agree with Senator Mooney on the issue of decentralisation. It is about time we had a debate on the issue because it seems that many Government Senators and Deputies think the Government has abandoned decentralisation. That is not the case. In fact, it has continued with many decentralised projects and has pledged to review many others. With regard to Carrick-on-Shannon, it is ludicrous that the Government is prepared to fly around the world to get a major multinational company to put jobs into that town but at the same time is unprepared to locate one of its Departments there, despite this approach having worked successfully in many other parts of the country. We need a full debate on this issue to get the full facts and to inform people that the Government has not abandoned decentralisation, rather that it has reviewed it. We should also discuss its benefits. Mention was made of cost-benefit analysis and we should examine the benefit to communities and with regard to jobs.

I want to mention the debate this week on community hospitals and public nursing homes. It seems there is a deliberate shift in policy from public to private. A comment made on my local radio this morning set me wondering why we are closing community nursing homes when massive private sector nursing homes are under construction currently. I was delighted to see a fairly substantial private sector nursing home under construction, but when I subsequently found out about the plans to close public nursing homes I started to think about the reasons for this. People who contact local radio stations have also started thinking about this. I am concerned that some of the most senior policymakers in the area of nursing homes have connections to the private nursing home industry, which seems to be booming currently, and there seems to be a deliberate transfer from a public service to a private service. That is what is happening and the Labour Party should be aware of this and must make investigations and inquiries.

Senator John Gilroy: That is not appropriate.

Senator Mary M. White: It is.

Senator Thomas Byrne: It is appropriate.

An Cathaoirleach: Senator Byrne, without interruption. Has the Senator a question for the Leader?

Senator Thomas Byrne: We are having this debate, but we need a full-scale debate on health policy. Before the election, I warned that Fine Gael policy was to transfer from public to private care where there would be no cutbacks.

Senator Ivana Bacik: That is rich. Fianna Fáil had a co-location policy when in government.

An Cathaoirleach: Senator Byrne, without interruption.

Senator Thomas Byrne: We had the HSE, our public health service, which Fine Gael proposes to transfer to private interests. That is exactly what is happening now. This debate is timely, but we need a full debate on health policy, on where it is going, who is pulling the strings, why those strings are being pulled and why we are looking at private rather than public services.

Senator Paul Coghlan: I wish to support the calls made for two specific debates, one of which should be on the media. Sadly, we are all aware of the many serious transgressions in recent times, where the reputations of innocent people have been tarnished and people have been seriously damaged. I hope these people exercise their legal rights in pursuance of their reputation and that we see the necessary successful actions for libel and defamation.

I support the call for a debate on the Croke Park agreement. It is a serious matter. Everything is on the table except for this, which is sacrosanct. We cannot afford that.

Senator Darragh O'Brien: Fine Gael and the Labour Party should have a chat among themselves. The Government needs to figure out what it is doing on Croke Park.

Senator Paul Coghlan: I look forward to hearing what the Leader has to say on this. I am sure he will facilitate us on both of these issues as early as possible.

Senator Brian Ó Domhnaill: I wish to acknowledge that the chief executive of Coillte Teoranta has agreed to take a 15% pay cut. I support Senator Darragh O'Brien's call for a debate on the forthcoming budget and on the pay rates which continue to be paid in the semi-State organisations. Mr. Gunning, the chief executive officer of Coillte, is on a salary of almost €300,000 and earned in excess of €430,000 last year. Despite efforts by the previous Minister for Agriculture, Fisheries and Food, Deputy Brendan Smith, verbally and in writing to the board of Coillte, it refused to waive a €56,000 bonus to that same gentleman in 2008. This must be discussed in this House in the context of public expenditure on semi-State organisations. I had requested that the pay of the chief executive officer of Coillte be discussed at the Oireachtas Joint Committee of Communications, Natural Resources and Agriculture meeting today. In light of that, I assume the pressure exerted on Mr. Gunning resulted in him reflecting on the situation in recent days and we welcome that reflection. However, it is only part of the solution.

I refer to the very regrettable position in which we find ourselves this morning with the Water Services (Amendment) Bill 2011 having been rushed through this House——

Senator John Gilroy: My God.

Senator Catherine Noone: I would hate to see the Senator slowing down.

(Interruptions).

Senator Brian Ó Domhnaill: —with no discussion on the Bill which was blocked and guillotined.

Senator Paul Coghlan: The Senator had a huge discussion and he was totally repetitive.

Senator Brian Ó Domhnaill: A Senator referred to the criminalisation of fishermen and how we should row back on that. What the Government side did by voting for the Water Services (Amendment) Bill 2011 was criminalise people with septic tanks. That is what has happened.

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

Senator Martin Conway: It has nothing to do with the Order of Business.

Senator Brian Ó Domhnaill: It is a bit rich to say we should decriminalise people.

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

Senator Brian Ó Domhnaill: There was a great deal of hot air from the Government side and people who have not read the Bill. My offer to Senator Jimmy Harte still stands, that is, a public debate on this issue on any radio station he wishes——

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

Senator Brian Ó Domhnaill: ——to clarify the facts.

An Cathaoirleach: The Senator is out of time.

Senator Jimmy Harte: Any time.

Senator Martin Conway: I, like others, would like a national audit or national inventory on the lands and buildings on which the State has long-term leases and which it has bought for the decentralisation project. I agree that decentralisation has, to a large extent, worked very well. Many counties in rural Ireland benefited significantly from decentralisation but it did not work following that famous budget. The following day there were posters all over County Offaly stating “Parlon country” and “Parlon delivers”.

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

Senator Martin Conway: It was to treat people like sheep and it was absolutely appalling. We are living with the consequences of that and as such, will the Leader request the OPW to do a complete inventory on the number of buildings on which we have long-term leases and on the land banks we have purchased, what these buildings and land banks cost and what the Government proposes to do about them? Can we break these leases? Will we benefit from the upcoming legislation——

An Cathaoirleach: Those questions can be asked in the debate.

Senator Martin Conway: Will we benefit from the upcoming legislation on upward only rent reviews? Will the Leader look into that?

We need a mature debate on the Croke Park Agreement 2012 as opposed to the Croke Park Agreement when it was negotiated in 2009-10 because we are living in a completely different

[Senator Martin Conway.]

environment. We must look at every element of government and micro-manage all aspects of the public sector. I suggest respectfully that the Croke Park Agreement should be examined to see if there is a way to ensure more cost savings and greater efficiencies. I look forward to taking part in that discussion.

I suggest also that it would be no harm to organise a session in which we bring in the social partners to get their up-to-date perspectives on the Croke Park Agreement.

An Cathaoirleach: I am sure it will be raised at the Committee on Procedure and Privileges.

Senator Mary M. White: It was a great pleasure to listen to our Donegal chieftain, Senator Brian Ó Domhnaill, having those opposite on the run.

Senator Martin Conway: That is inappropriate to the Order of Business.

Senator Mary M. White: Let us see what happens in the Dáil and the expediency with which this Water Services (Amendment) Bill 2011 will be passed.

Senator Martin Conway: The Minister, Deputy Phil Hogan is a warrior. Senator Ó Domhnaill is a chieftain.

Senator Mary M. White: I find it amazing that the rural Senators opposite so strongly support this Bill. They should take care if they plan to run for the Dáil in the future as the people have long memories.

Senator Michael Mullins: Speaking from experience?

Senator Martin Conway: At least some of her colleagues made it.

Senator Mary M. White: I refer to a serious issue which I have brought to the House's attention over the years. I published a document in 2008 entitled, What we can do about suicide in the new Ireland. I am sure everybody is aware that Gary Speed, the former English premiership soccer player and the manager of Welsh soccer team, hanged himself on Saturday night.

Senator Martin Conway: That is inappropriate.

Senator Mary M. White: —after participating—

Senator Martin Conway: That is totally inappropriate, a Chathaoirligh.

An Cathaoirleach: Senator White, without interruption.

Senator Mary M. White: —on a BBC soccer programme. His family said there was no discontent.

Senator Catherine Noone: On a point of order, I have a great concern about the likes of this being raised on the——

Senator Mary M. White: Will the Seanad novices keep quiet please?

Senator Catherine Noone: Excuse me. I am entitled to raise a point of order.

Senator Mary M. White: I want to raise a very important issue.

An Cathaoirleach: I ask Senator White to withdraw that comment. That is inappropriate to the Order of Business. Does the Senator have a question for the Leader?

Senator Mary M. White: We need to have a serious talk in this Chamber, as we have had in the past which the new Senators——

Senator Jimmy Harte: What is a Seanad novice?

An Cathaoirleach: I asked the Senator to withdraw that.

Senator Ivana Bacik: It is inappropriate and patronising.

An Cathaoirleach: Senator White——

(Interruptions).

Senator Mary M. White: The Senator would want to watch her step.

An Cathaoirleach: Senator White, to conclude. She should withdraw that remark as well.

Senator Mary M. White: In Saturday's edition of *The Irish Times*——

An Cathaoirleach: The Senator should withdraw that remark as well.

Senator Mary M. White: Pardon?

An Cathaoirleach: The Senator should withdraw that remark as well.

Senator Paschal Mooney: On a point of order, is there a ruling that a Senator on either side of the House cannot use any information to develop a very legitimate point? The case referred to by Senator White has overwhelmed the population of the United Kingdom.

An Cathaoirleach: That was not what I asked Senator White to withdraw, as the Senator well knows.

Senator Paschal Mooney: In that context, why should she withdraw it?

An Cathaoirleach: Will Senator White conclude please?

Senator Paschal Mooney: Why should she withdraw a point she was trying to develop?

An Cathaoirleach: I did not ask her to withdraw the point she was trying to develop but a comment she made.

Senator Mary M. White: Are they not novices?

Senator Paschal Mooney: Sorry, can the Cathaoirleach explain what the comment was?

An Cathaoirleach: The Senator can read the blacks.

Senator Mary M. White: Are they not novices?

An Cathaoirleach: Everybody is here on equal basis.

Senator Paschal Mooney: A Chathaoirligh, forgive me. I thought you were referring to the original point.

An Cathaoirleach: No.

Senator Paschal Mooney: I totally bow to your ruling on that. Thank you.

Senator Mary M. White: In Saturday's edition of *The Irish Times*, there was an extraordinary article by Mr. Peter Murtagh on the young lady who was the director of the Democrats Abroad election campaign for President Obama in Ireland. After writing to *The Irish Times* in August about her profession, she took her own life immediately after so doing.

An Cathaoirleach: Does the Senator have a question for the Leader because she is way over time?

Senator Mary M. White: In Ireland, as in many other countries, four times more men take their lives by suicide than women. The National Suicide Research Foundation is about to publish a research document which shows that 48% of people who died by suicide in a particular cluster in a particular part of this country, which I am not free to mention, were unable to access counselling help. Some 48% of these young men died by suicide in a cluster——

An Cathaoirleach: Is the Senator calling for a debate on this issue?

Senator Mary M. White: We certainly need to debate this issue.

An Cathaoirleach: I call Senator Mary Ann O'Brien.

Senator Tom Sheahan: On a point of order——

An Cathaoirleach: I am not taking the Senator's point of order at the moment.

Senator Tom Sheahan: Is it appropriate for people to look for the gory details of why somebody committed suicide? It is deplorable.

Senator Mary M. White: This is the point——

Senator Tom Sheahan: We are not entitled to know. That is an issue for the family.

An Cathaoirleach: Senator Sheahan should resume his seat. I call Senator Mary Ann O'Brien

Senator Catherine Noone: Well said, Senator Sheahan. That is the point.

Senator Mary Ann O'Brien: Not being a Seanad veteran, I will do my best to be brief. I wish to inform the House of a very serious case of neglect in the care of a four year old child in County Tipperary. Some Members might think it is quite a serious claim but unfortunately, it is the reality. James John Ryan was four years old in September. He was a premature baby.

An Cathaoirleach: The Senator should not refer to individuals in the Chamber.

Senator Mary Ann O'Brien: I beg your pardon, a Chathaoirligh.

An Cathaoirleach: The Senator should keep the issue to a general——

Senator Mary Ann O'Brien: Okay. This little boy was born with a hole in his heart, a chronic lung problem and a brain bleed at birth which left him suffering from quadriplegic cerebral palsy. He is profoundly deaf, cannot swallow and is unable to speak. The Jack and Jill Children's Foundation should have finished caring for him in September, but we are continuing

to care for him because we cannot get the HSE to interact with his family regardless of how often his family has written to it.

I bring the House's attention to a letter that the HSE wrote to the child's family this week. One paragraph in particular is mind-boggling. The HSE stated that finding a way to operate within the level of available resources while still meeting the needs of families was the task that the HSE and the foundation were required to address in collaboration with each other. The HSE also reiterated that neither this service nor any other disability service was demand-led and that, in the current economic climate, it was imperative that all services operate within their allocations. If the health system is not demand-led, what is it exactly? The only conclusion I can draw from the statement is that a senior HSE official has committed to paper that the organisation's current culture and systems are fixed and rigid.

Will the Leader invite the Minister for Health to the House as a matter of urgency to explain to us whether it is the Minister's opinion that the HSE is not demand-led and why the needs of the boy in question are being neglected by the State? The seriousness of the case cannot be underestimated, as I have just learned that the Ombudsman for Children has appointed an investigative team to examine it. It is great news for the family, but it should never have come to this.

Senators: Hear, hear.

Senator Maurice Cummins: I indicated to the House that we would have a pre-budget debate. When I made my request, I was informed that the Minister of State, Deputy Brian Hayes, would be available next week. Due to unforeseen circumstances, however, he will no longer be available. I also raised the matter with the Minister for Finance who replied that he was fully aware of every pre-budget submission from parties and groups. This is all I can say.

Regarding the vacancy left by the resignation of the former Minister of State, Deputy Penrose, the Minister for the Environment, Community and Local Government, Deputy Hogan, has assumed responsibility for the housing portfolio until such time as a Minister of State is appointed. Last week, the Minister outlined a major new policy approach to homelessness and stated that a move away from the current over reliance on emergency accommodation provision to a more permanent accommodation solution was required. We all agree with his proposal. Filling the vacancy is a matter for the Taoiseach. I remind Senator Darragh O'Brien that the people of Donegal were left for a year and a half without representation last year.

2 o'clock

Senator Darragh O'Brien: It was a bad decision.

Senator Maurice Cummins: Senators Bacik, Zappone and others called for a debate on domestic violence and the need for the Minister for Health and possibly the Minister for Justice and Equality to attend the House. Senator Zappone also raised the question of organisations' funding in this regard. I will attempt to arrange a debate on the subject early in the new year. We are unlikely to have statements on any subject before Christmas, given the number of Bills with which we must deal. We will probably only deal with legislation between now and Christmas.

Senators Bradford, Sheahan, Noone, Paul Coghlan and Conway asked for a debate on the Croke Park agreement. I will try to arrange a debate with the Minister for Public Expenditure and Reform, Deputy Howlin, for early in the new year.

Senator Wilson asked about the Chief of Staff not meeting a Fianna Fáil councillor. I would have expected the inclusion of public representatives in any meeting but I will try to ascertain the situation.

[Senator Maurice Cummins.]

Senator Harte asked for a debate on cardiology services in County Donegal, but it might make for a better Adjournment matter later this week.

Senator Crown raised a number of important points about cancer screening and access to cancer drugs. It is paramount that people have access to cancer drugs. I will ascertain for him whether a change to the policy has been proposed for the near future. I agree with him on ending the mandatory retirement age, which was discussed by the Seanad Public Consultation Committee with representatives of older people last week.

The question of pensions for Deputies and others who are aged under 65 years has been addressed in 2004 legislation. People who retire in their 40s, 50s or whatever will not receive pensions until they are 65 years of age.

Senator Sheahan requested a debate with the Minister for Agriculture, Food and the Marine on the Common Fisheries Policy, CFP. I will try to arrange it and determine the position of former Deputy Jim O'Keeffe's Bill on administrative rather than criminal sanctions in respect of fishermen.

Senator Cullinane called for a debate on the retail sector. I will try to arrange one for early in the new year, as it would be a worthwhile debate.

Senator Burke discussed improving research projects' access to funding. I will arrange a debate on the issue. The Tánaiste and Minister for Foreign Affairs and Trade is due to attend the House in January.

Senator Leyden asked about fire-fighters in Roscommon. This issue was raised as a matter on the Adjournment in the name of Senator Kelly last week. The matter is for the council and the Labour Court to address and I have no intention of debating the subject in the House.

Senators Mullins, Mooney, Byrne, Conway and others referred to decentralisation plans and the requirement for cost-benefit analyses and an inventory of leases. It was a flawed process in many ways, as has been accepted by some Members on the other side of the House.

Senator Quinn asked about the first four weeks of sick pay being a burden on employers. When the Minister for Social Protection attended the House last week, the Senator suggested that this provision not be applied to small businesses, namely, those with fewer than ten employees. We will await the budget.

Senator Noone asked about NAMA's stock of properties. This matter could be discussed during our debate on decentralisation. Regarding the question of the Grand Canal Theatre being sponsored by Bord Gáis, every arts organisation is in need of funding. If organisations cannot get sufficient funding from the Government, they must seek it from other sources. However, this is a matter for the Grand Canal Theatre. It is a private organisation and the Minister cannot get involved.

Senator Mooney referred to human rights abuses in Syria. Every Senator joins with him in condemning these abuses. The Tánaiste will attend the House in January.

Senator Gilroy raised the important matter of the growing of cannabis and the promotion of its use by some Members in the Lower House. This is a serious matter that we can debate early in the new year.

Senator Byrne asked about nursing homes, a matter that is the subject of a Private Members' motion. I am sure that people on this side of the House will refer to the Fianna Fáil-Progressive Democrats policy on co-location, but we will have ample time during Private Members' business to address the points raised by the Senator.

Senator Terry Leyden: The Leader is blessed with a great memory.

Senator Maurice Cummins: Senator Ó Domhnaill discussed Coillte. I am glad that its CEO has finally acceded to the Taoiseach's request. The Senator also referred to the Water Services (Amendment) Bill 2011, our debate on which lasted in excess of 17 hours.

Senator Darragh O'Brien: Thanks to the Opposition.

Senator Maurice Cummins: In any parliamentary democracy a debate like that would be sufficient for such a Bill. Regarding the scaremongering by Senator Ó Domhnaill about €12,000 being charged for the replacement of septic tanks, I wrote and invited Senator Ó Domhnaill to provide me with examples but I received nothing from him.

Senator Brian Ó Domhnaill: It is in the Bill.

Senator Maurice Cummins: Senator White called for a debate on suicide, which I have already arranged, and the Minister will be in the House in January. Senator Mary Ann O'Brien referred to a specific case of neglect of a child. I suggest that this can be the subject of an Adjournment debate, when she will receive a more detailed response.

Senator Paschal Mooney: Did the Leader address the question I raised about a debate on foreign affairs?

Senator Maurice Cummins: I did.

Senator Paschal Mooney: I am very sorry, I had to go out of the Chamber for a moment. I am grateful to the Leader.

An Cathaoirleach: Senator Darragh O'Brien has proposed an amendment to the Order of Business, "That a pre-budget debate take place today." Is the amendment being pressed?

Senator Darragh O'Brien: Yes.

Amendment put.

The Seanad divided: Tá, 14; Níl, 30.

Tá

Byrne, Thomas.
Cullinane, David.
Leyden, Terry.
Mooney, Paschal.
Norris, David.
Ó Clochartaigh, Trevor.
Ó Domhnaill, Brian.

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

Níl

Bacik, Ivana.
Bradford, Paul.
Burke, Colm.
Clune, Deirdre.
Coghlan, Paul.
Comiskey, Michael.
Conway, Martin.
Crown, John.
Cummins, Maurice.
D'Arcy, Jim.
D'Arcy, Michael.
Gilroy, John.

Harte, Jimmy.
Heffernan, James.
Henry, Imelda.
Higgins, Lorraine.
Keane, Cáit.
Kelly, John.
Landy, Denis.
Mac Conghail, Fiach.
Moloney, Marie.
Moran, Mary.
Mulcahy, Tony.
Mullins, Michael.

Níl—*continued*

Noone, Catherine.
O'Brien, Mary Ann.
O'Donnell, Marie-Louise.

O'Neill, Pat.
Sheahan, Tom.
Whelan, John.

Tellers: Tá, Senators Ned O'Sullivan and Diarmuid Wilson; Níl, Senators Ivana Bacik and Paul Coghlan.

Amendment declared lost.

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

The Seanad divided: Tá, 31; Níl, 13.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Colm.
Clune, Deirdre.
Coghlan, Paul.
Comiskey, Michael.
Conway, Martin.
Crown, John.
Cummins, Maurice.
D'Arcy, Jim.
D'Arcy, Michael.
Gilroy, John.
Harte, Jimmy.
Heffernan, James.
Henry, Imelda.
Higgins, Lorraine.

Keane, Cáit.
Kelly, John.
Landy, Denis.
Mac Conghail, Fiach.
Moloney, Marie.
Moran, Mary.
Mulcahy, Tony.
Mullins, Michael.
Noone, Catherine.
Norris, David.
O'Brien, Mary Ann.
O'Donnell, Marie-Louise.
O'Neill, Pat.
Sheahan, Tom.
Whelan, John.

Níl

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

O'Donovan, Denis.
O'Sullivan, Ned.
Reilly, Kathryn.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Ivana Bacik and Paul Coghlan; Níl, Senators Ned O'Sullivan and Diarmuid Wilson.

Amendment declared carried.

Seanad suspended at 2.10 p.m. and resumed 4.30 p.m.

Road Transport Bill 2011: Second Stage

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

Minister for Transport, Tourism and Sport (Deputy Leo Varadkar): The Bill is being brought to the House as a matter of urgency to deal with a number of issues that arise from the coming into force of EU regulations on road transport operators on 4 December. I thank the House for facilitating me in this regard. Those largely technical issues arise to a large degree from the introduction of EU regulations replacing a previous EU directive. In changing the basis for

national implementation, some matters previously provided under national regulations must now be provided for in primary legislation. I have also taken the opportunity in the Bill to introduce a small number of new provisions and to make minor amendments to provisions such as false declarations and conditions on licences.

I will give the House an outline of the road transport sector and the context for the legislation. We are talking about the commercial road transport sector, that is the sector that provides road haulage and road passenger transport for hire and reward. This encompasses a considerable amount of the freight traffic within the State and the greater part of road passenger transport, including Bus Éireann and Dublin Bus services. All operators for hire and reward require a licence from my Department and the licensing of operators is an EU requirement. This reflects the trans-European nature of the business of many operators and the interests of all member states in having a sector that is reliable, safe and accountable.

There are approximately 7,000 licensed operators in Ireland using approximately 25,000 large vehicles. The sector clearly is important to our economy, both in the movement of goods and people, and as a significant employer. High standards in the sector and the good reputation that goes with them are important for its competitiveness, both at home and across Europe. The public must also have the assurance that the operators they engage are licensed, safe, reliable and amenable to the law. It is equally important that legitimate operators are not undermined by those operating without licences or by those who are licensed but do not comply with the licence conditions, including vehicle and driver safety on the roads.

A strong and competitive road transport sector is important for our economy and the road transport legislation must support that. It must set the standards, influence positive and responsible behaviour, and eliminate financial gain from non-compliance by setting effective deterrents. Road transport is regulated by various Road Transport Acts since 1933, augmented by EU legislation and national regulations. From time to time consolidation of the legislation is needed and regular review is good practice to take into account developments in the road transport sector, the nature of the business and EU policies among others. I am currently looking at all road transport legislation and I hope to bring forward an updated and comprehensive road transport Bill next year to replace the existing Acts and to set the direction for road transport policy for the coming years. The Bill before the House is a small step in that direction. While Senators may have a number of more general proposals to make about the sector, I may not be able to take them into account in this Bill, but I will consider them for the next Bill.

The Road Transport Bill 2011 introduces three improvements immediately. First, it strengthens the existing provisions on the fitness and suitability of road transport operators. Second, it provides greater access to information so that the public can find out who is, or is not, licensed. Third, it provides for much greater penalties for unlicensed operators and introduces some new offences to improve compliance by existing operators.

As I indicated earlier, the Bill is needed to ensure certain existing provisions remain in force after 4 December. Those provisions are as follows: road passenger transport operations require a licence, and operation without a licence continues to be an offence; fees can be charged for licences; the appeal provisions where an application for such a licence is refused or where such a licence is withdrawn will continue to apply; and exemptions from the requirement to have a road transport operator licence will continue to apply. These include such things as the carriage of mail and funeral transport.

The reason these provisions will otherwise cease to have effect is somewhat convoluted, but I can summarise it for the House. The licensing of road haulage provisions is in general set out in the Road Transport Acts. When EU Directive 96/26 came into force, certain passenger transport licensing provisions were provided in national regulations made under the European

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Communities Act. As that European Union directive will be replaced by new European Union regulations with effect from 4 December, any national regulations which relate to the directive will cease to have effect on the same date. EU regulations have direct effect and apply automatically, usually only requiring national regulations on such matters as providing for offences and penalties, designating the national authority and so on. In preparing those national regulations, the advice was that for legal reasons, certain elements of EU regulation require primary legislation, rather than national regulation as previously thought. I will go into more detail on particular provisions when outlining the individual sections of the Bill.

I have mentioned three additional provisions which the Bill will introduce. The fitness and suitability of operators are key licensing criteria, given the nature of the road transport business in transporting goods or passengers, travelling across national boundaries and with regard to safety on the road network. This comes under the heading of good repute and it is the case that not all applicants will satisfy this requirement. For example, certain convictions or penalties in respect of road safety, vehicle defects, excessive driver errors or smuggling must raise questions about good repute in a road transport business. They potentially can give grounds for refusing an application or withdrawing a licence and this already is part of national policy and legislation. Convictions relating to a range of serious and violent offences, such as murder, human trafficking and drug trafficking, also have a direct bearing on good repute. The Bill provides for this specifically in primary legislation. It extends the range of positions within an operation to which it applies and allows the Minister to take into account any of the offences whenever they occurred. My objective in doing this is to strengthen the good repute provisions and the powers to refuse applications or withdraw licences where this is necessary.

Existing national regulations relating to serious convictions are affected by the European Union regulations. They will cease to have effect on 4 December and even a restatement could not, as previously, provide for automatic disqualification for five years from the date of conviction. The European Union regulations allow applications to be made and require member states to engage in an administrative process whenever they are considering refusing or withdrawing a licence. In other words, a person cannot be prohibited from applying for a licence. The good repute consideration can be a rigorous process and an application can be refused. An appeal process to the District Court already is provided for in the Road Transport Acts regarding the refusal or withdrawal of haulage licences and this has been restated and updated in this Bill and combined with passenger licences.

The existing regulations related only to serious convictions of the operator but the Bill extends this to include other positions in the business such as directors, business partners and transport managers and, crucially, to drivers with passenger firms. This is particularly important since such drivers can have access to children, the elderly and other vulnerable people in the course of their work. Any convictions for serious or violent offences, such as murder or serious sexual offences, should quite rightly be taken into consideration in the licensing process.

The availability of information on who is or is not licensed is important for the public and customers of the haulage and passenger transport services. A register of operator licences already is kept by my Department and is available for public inspection but its accessibility can be improved. In this day and age, such information should be available online and the Bill provides for that. Online information will help identify to the public if particular operators, large or small, are currently licensed and if the vehicles they are using are authorised on the licence. Licensed operators must meet certain financial and competence requirements, their vehicles must be compliant with all safety requirements and licensed operators are subject to checks and inspections. Unlicensed illegal operators are potentially less safe and less reliable, with consequent risks for any goods or passengers carried. The Bill will also make it an offence

for anyone to claim they are a licensed operator when they are not. This should deter any operators from putting words such as licensed haulier on a truck when they have no haulage licence. Having the register in place will make it easier for enforcement authorities to confirm this and to enforce the licensing rules in general.

Realistic penalties must be in place to deter illegal activities and operators and the Bill significantly increases the penalties for operating without a licence and introduces some new offences. Currently, for example, the maximum penalty for operating without a haulage licence is €6,350, and there is no provision for a prison term. That penalty was set 25 years ago and is hardly a deterrent any more. This Bill will provide that the maximum fine for operating without a licence is €500,000 or a prison term of three years or both. This demonstrates clearly that we are serious in tackling illegal and unsafe operators.

The Bill also will provide the same maximum penalty for consignors who engage illegal operators. For every unlicensed operator flouting the law, there is an unscrupulous consignor willing to save a few euro by employing an unlicensed operator, thereby putting unfair pressure on compliant and legally licensed operators and putting questionable vehicles on the road. The message I want to give out is clear — unlicensed operators are far more likely to be unsafe, less reliable and to be poor employers. Anyone who gives them business is complicit in their activities and will be liable to the same staff penalties.

The Bill also introduces new offences. It will be an offence to operate a vehicle which is not authorised on a licence, even if the operator is licensed, and the maximum penalty will be €500,000. It is important that the vehicles used are known and authorised, not just in relation to vehicle safety but in regard to motor tax and insurance. Another new offence relates to making false declarations to obtain a licence, or forging or altering licences. This latter kind of activity is on the increase and needs to be made an offence with appropriate penalties.

These and other provisions of the Bill will help my Department, the gardaí and the RSA to improve compliance in the sector. They should also help the great majority of hauliers and passenger operators who are responsible, law abiding and willing to compete fairly on a level playing field. I do not claim to address all road transport issues or concerns in this Bill, given its particular time imperative. It is, however, my intention to take a wider and more long-term perspective on the sector in a road transport Bill next year.

I now turn to the specific provisions, which set some of the context for the Senators. Section 1 deals with definitions. These are standard provisions. Section 2 deals with the obligation on a operator to inform the Minister of certain convictions. This is the main section relating to certain serious convictions. It requires an applicant or a licensed operator to inform the Minister of certain serious convictions and it relates those convictions to the operator, to certain positions within the operation such as directors, business partners and transport managers and to drivers with passenger transport operations. The serious convictions are murder, manslaughter, drug trafficking, certain non-fatal offences against the person, human trafficking, certain sexual offences, certain money laundering, theft and fraud offences, firearms offences, and aiding and abetting any of the above. The section relates to convictions in Ireland or in another jurisdiction, and the Minister must be notified of certain details, including the nature of the offence, the penalty or sentence and if the offence was committed in the course of, or connected with, a road transport business. Failure to inform the Minister or providing false information will be an offence and grounds for refusing an application or suspending or withdrawing a licence.

Section 3 deals with the obligation to inform an operator of certain convictions. This section requires those holding certain positions to inform the operator of any of the specified convictions which apply to them and makes it an offence to fail to do so.

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Section 4 requires the Minister to consider certain convictions. This section provides that the convictions set out in section 2 are to be considered by the Minister in relation to good repute of an applicant or an operator. This is one of the four criteria for a road transport operator licence, the others being financial standing, professional competence of the transport manager and establishment in the State. The section restates the Minister's powers to decide in relation to good repute that a licence can be refused, suspended or withdrawn.

Section 5 covers appeals. The section maintains the current provisions relating to appeals to the District Court against refusal, withdrawal or suspension of a passenger transport operator's licence by the Minister. It is one of the provisions currently in national regulations which now require primary legislation. I have also taken the opportunity to combine the appeal provisions with those for road haulage operator licences.

Section 6 deals with evidence of foreign convictions. This sets out the nature of evidence of foreign convictions required in proceedings for an offence in section 2. These proceedings relate to the failure to inform the Minister of specified convictions.

Section 7 deals with continued compliance in terms of an operator's licence. For the avoidance of doubt, this section restates and clarifies existing provisions. The Minister may request and must be given any necessary information from an applicant or a licence holder so that the Minister can be satisfied the person meets or continues to meet the licensing requirements. It also provides that a licence is the property of the Minister and must be returned where the licence is suspended or withdrawn.

Section 8 deals with a change of details in an operator's licence or application. This is a new provision which requires an applicant or licensed operator to notify the Minister of any changes in details or circumstances, which would mean he or she no longer meets the requirements for a licence. For example, changed circumstances might mean an operator no longer meets the financial standing criteria or no longer has a suitable transport manager.

Section 9 deals with the requirement to hold an operator's licence. This replaces existing provisions for road passenger transport which now require primary legislation and it combines them with similar existing road haulage provisions. It provides that a person may not carry on the business of a road transport operator without a licence, a licensed operator may not operate a vehicle that is not specified in the licence, a person may not engage in the services of a road transport operator for hire or reward unless the operator is licensed or the services are exempted, and the types of carriage listed in the Schedule are exempted from the requirement to have a licence. The Schedule lists activities such as carriage of mail, carriage of refuse and funeral transport. This is not the full list of exempted activities, as others are already included in the Road Transport Acts. This is a good example of the need for consolidation of the legislation which I hope to address next year.

Section 10 prohibits purporting to operate other than in accordance with an operator's licence. This is a new provision for passenger transport operators but reflects existing provisions for road haulage operators. Section 11 refers to the obligation to carry a copy of an operator's licence and display a transport disc on a vehicle. This section relates to enforcement and easy identification of licensed and unlicensed operators. It requires operators to ensure that all appropriate documentation is kept in their vehicles and that the vehicles properly display their transport disc. It also empowers the Garda and transport officers to inspect such documents when required. Again, this is a restatement in primary legislation of an existing passenger transport provision, and combines it with existing road haulage provisions.

Section 12 refers to registers and restates and adds to existing provisions relating to a register of operator licences and certificates of competence for transport managers. It repeats existing

provisions which establish the register, require the register to be available for inspection and enable the public to obtain copies of entries. It adds a provision that the register may be published on the Internet on the Department's website, and clarifies that the information provided may include vehicle details. The facility to publish online is not possible without primary legislation, but such an arrangement will improve public access to information on licensed businesses.

Section 13 replaces existing provisions relating to fees for passenger transport licences. It is another example of an existing provision which now requires primary legislation and combines it with similar provisions for road haulage licences. I have also taken the opportunity to provide for the payment of fees for a wider range of documents such as duplicates and replacements, and to include the fees paid for transport manager training and certification which is carried out on my behalf.

Section 14 on false declarations extends the existing provisions on offences for making false declarations or providing false information when applying for a licence to include offences for altering or forging documents. Section 15 on prosecutions and body corporate offences restates the standard provision on offences by bodies corporate to cover the offences under the Bill. The section also provides that a summary offence under the Bill may be prosecuted by the Minister or by the Road Safety Authority.

Section 16 on transport officers restates the existing provisions on the powers of transport officers of the Road Safety Authority to include references to the Bill, EU regulations, and any road transport regulations made under the European Communities Acts. Section 17 relates to search warrants and restates existing provisions on the road transport enforcement powers of RSA transport officers to search premises under warrant, so they are linked to offences under the Bill. Section 18 on transport managers combines existing provisions on requirements for transport managers of passenger and road haulage operations.

Section 19 amends section 2 of Road Traffic and Transport Act 2006 to include "established in the State" as a criterion for obtaining a road transport operator's licence, as required under the new EU regulations. The other criteria are good repute, financial standing and professional competence. It also takes the opportunity to allow application forms to be determined by the Minister, rather than be prescribed in regulations as is currently the case for passenger transport operations, and to state for clarity that any conditions attached to a licence must be complied with, and that the Minister may refuse to grant a licence until the applicant has complied with the application regulations.

Section 20 is on the community licence and amends a definition in the Road Transport Act 1999 to include reference to the EU regulations. Section 21 is a standard provision on the service of notices and notifications, such as those in section 5 on appeals. Sections 22 and 23 refer to expenses, the short title and construction. These are standard provisions. My intention is that the Bill will come into operation immediately on being signed by the President. The Schedule exempts certain types of carriage from the requirement to hold a road transport operator licence.

This, in essence, summarises the Road Transport Bill. As I outlined at the beginning of my speech, the Bill is being brought to the House as a matter of urgency to deal with a number of particular issues that arise from new EU regulations on road transport operators which come into force on 4 December. A small number of additional provisions have been included to improve some elements of licensing.

I fully recognise that the circumstances of the Bill do not allow a full consideration of the many and varied aspects of road transport, which could potentially provide material for lively debate, new ideas and amending legislation. However, as the Bill deals with the most urgent

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issues, I see it as the first step in a comprehensive review process, and I have a more detailed road transport consolidation Bill in mind for next year. I look forward to the co-operation of Senators in facilitating the passage of the Bill, and I commend the Bill to the House.

Senator Ned O'Sullivan: I welcome the Minister back to the House. By his own statement he accepts, at least tacitly, that this is rushed legislation. It has appeared before us with undue haste, especially considering that this matter was flagged nearly two years ago as something that was coming down the line.

Senator Pat O'Neill: Who was in government then?

An Cathaoirleach: Senator O'Sullivan, without interruption.

Senator Ned O'Sullivan: The Government side seems to think that Fianna Fáil is still in government, but we are not. We have been out of government for some time now. The Government Members will have to start taking responsibility.

(Interruptions).

An Cathaoirleach: Senator O'Sullivan, without interruption.

Senator Ned O'Sullivan: Clearly, this measure should have been before us long before now, yet it only reached the Dáil last week. If we do not pass this legislation we will end up in a virtual limbo in terms of transport regulation. We will not allow that to happen of course, so I assure the Minister that my party will facilitate the passage of the Bill. I wish to record our unhappiness, however, that it has been allowed to drag on to this extent. It bodes ill if Government Departments get into the habit of waiting until almost the last minute to produce legislation. It is almost like putting a gun to the head of the Dáil and Seanad, and saying, "We have to pass this, or we're in difficulty".

Having said that, I support the legislation and welcome the Minister's commitment to introducing a more comprehensive Bill on the transport system. I look forward to that, at which time, hopefully, we will be able to raise quite a number of extra issues that will not come under the remit of tonight's debate.

This Bill, which derives from EU regulation No. 1071/23, creates the backdrop to this debate and replaces certain directives. In general, it is an improved situation which strengthens and enhances the supervision of the transport sector, which is to be welcomed for a number of specific reasons. It is important that a sector as vital to the domestic economy as transport is seen to be properly regulated. Any strengthening in that regard must be welcomed. The public need to have trust and confidence in the public transport system, both for passengers and goods. The Bill should certainly go a long way towards that.

I also welcome the fact that the register of operators will be available on-line, and that the Minister seems to be committed to progressing that. I would like to see more Departments taking up that because the more information to which the public can have access, the better. There is nothing to hide and everything to gain from the public knowing as much as possible about who is in charge of transport movements and who is driving the logistics, if Members will pardon the pun.

While there are rogue operators in every walk of life, they should not be allowed to piggy-back on legitimate, law-abiding business people by undercutting, and therefore undermining, legitimate business. I welcome the Minister's commitment to ensuring that will not happen.

The concept of good repute is central to the Bill. We all support a situation whereby a Minister would have all the information available to him or her about characters either involved in driving or managing transport operations before granting a licence. I hope, however, the Minister of the day would not automatically deny an operating licence because a person has had a criminal conviction and has served time. The Minister should clarify that point.

Nobody could envisage any possibility of a convicted sex offender or paedophile driving a bus or getting involved in school transport. That is out of the question. None the less, somebody convicted of manslaughter or a crime of passion may have served his time and been rehabilitated in the penal system. Having come forward and entered into gainful employment, there is every possibility that the individual would be found suitable to be entrusted with work in the transport sector. Will the Minister confirm that the provision of authority to get information is contained in the Bill, and also the ability to act on it while not necessarily being tied by it?

I welcome that the Garda and transport officers will have an easier job in detecting licensing offences and in taking necessary steps in cases of infringement. I do not need to go over the statistics for the transport sector as the Minister referred to them. We have 7,000 licensed operators, involving approximately 25,000 vehicles, with more than 50,000 people employed in the sector between drivers, mechanics, warehousing personnel and administrative people. Transport is the sinew of all business, which cannot survive without a proper transport system for suppliers, deliveries and so on.

I like the way the Minister is categorising the different people involved in the sector to whom licensing will apply. The relevant people include drivers, directors and partners, and the legislation is quite clear. I have received correspondence from the Irish Road Haulage Association, which seems to be rather sceptical of the swingeing fine of €500,000 or three years imprisonment. It is of the opinion that this will not happen and no judge in his right mind would impose such penalties. What is the Minister's response? Are we putting into law unrealistic penalties which might in some way undermine the integrity of the Bill?

I would like to see the Minister building on the website information. I wish we could fast-forward to a day when our Garda patrol cars could be equipped with an Internet facility and would be able to go online if gardaí are engaging with a bus or truck driver. They would be in a position to have all the information they want online and this would reduce the need for the provision in the Bill for people to produce licences. We might put a stop to the paper trail not only in this instance but with driving licences, insurance, national car tests, etc. The more we can do this online with Garda technology, the more logical the work will be.

The Minister referred to exemptions, which are interesting. In the Dáil my colleague, Deputy Timmy Dooley, referred to exemptions which previously obtained with regard to agri-transport. I did not have time to see what the response was so I will repeat the Deputy's question. Under the old dispensation, transport of cattle, sheep, milk products to or from a creamery, turf and freshly harvested oats and barley were exempt but such exemptions are not specified in this Bill.

Another concern for the Irish Road Haulage Association and speakers here is own account transport operations, which are responsible for 65% of total transport in the country. Why do they not come under the terms of the Bill and is there a particular reason they should not be subject to regulation, supervision and licensing? I confess that the term "cabotage" was not in my lexicon until recently but having looked it up in the dictionary, I now understand what it means. It sounded like something done to a taxi driver late at night if he was going the wrong direction. It is obviously not within the remit of the Bill to discuss it, which I accept, but it is a serious problem for Irish transport business and puts it at a serious disadvantage with regard

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to other countries because we are an island nation. I hope the Minister will address the issue in the legislation he referred to.

There is not much more to say. Cost is a significant factor in the success or otherwise of a transport enterprise. We have seen from one of the many inspired leaks from Cabinet, of which the country is terrified, that there is reference to the increased cost of diesel and petrol duty, VAT and carbon taxes. That will drive costs higher for operators and bring about job losses. As the Minister also deals with tourism he might be interested to know that it might mitigate against moving tourists from cities such as Dublin to the rural regions like Kerry and Donegal. If transport costs are to be high, it will be another negative factor.

I look forward to the prospect of the Minister introducing some additional comprehensive legislation for taxi regulation, although it is not relevant to this Bill. The issue could be reviewed. I welcome the Bill generally and commend the Minister.

Senator Pat O'Neill: I welcome the Minister to the House and compliment him on his speech to the House today in which he explained the Bill very well. I am pleased to welcome this Bill to the Upper House on behalf of Fine Gael. The timeframe and the technical nature of the Bill mean that its passage through the Oireachtas should be smooth and efficient. The origin of the Bill's provisions in the EU directive highlights the importance of the scrutiny of EU legislation by our Oireachtas committees as well as the fact that much work has been done on this particular matter before it reached the floor of the Seanad. I agree with Senator O'Sullivan when he asked why, if the legislation has been around for two years, it is coming before us this late. We can blame both sides.

Senator Ned O'Sullivan: It is an improvement.

Senator Pat O'Neill: The Minister has outlined the provisions of the Bill and my contribution will deal with it. He has indicated he will bring another transport Bill before the Houses of the Oireachtas next year and I will broaden the discussion to take in the issue.

I was interested to read about the wide scope of the commercial road transport sector which provides for road haulage and road passenger transport for hire and reward. An enormous amount of freight traffic is transported by road within this State. Unlike other countries, which still use their rivers and canals, particularly on the Continent, or countries that make great use of commercial trains, such as Australia, almost everything which is transported commercially within this State is transported by road. All of these operators for hire and reward require a licence from the Department of Transport, Tourism and Sport, an aspect of EU law reflecting the EU's great work is achieving high standards of safety and good regulation right across the Union. We cannot underestimate what a positive and welcome achievement this is and, at this time where there is so much negativity around the EU project, we would do well to reflect on its many positive initiatives to protect consumers by ensuring high standards in sectors such as commercial road transport.

As the Minister and Senator O'Sullivan pointed out, the 7,000 licensed operators in Ireland operate around 25,000 large vehicles which gives some insight into the scale of the sector. Since the opening of the Dublin Port tunnel, these vehicles are no longer as visible within the city of Dublin. However, they make significant use of our motorway network. Driving on an Irish motorway late at night or very early in the morning, one can see that often the only traffic is comprised of trucks.

I have heard that since the opening of new sections of the M7 and M8 and the introduction of a toll plaza outside Portlaoise, many road users, including commercial road users, are avoid-

ing the toll by exiting the motorway before the toll and travelling down the old Dublin to Cork road through the towns and villages of Abbeyleix, Durrow, Cullahill, Johnstown and Urlingford before rejoining the motorway outside Urlingford. This has caused some annoyance to the residents of these small towns who looked forward to saying goodbye to commercial freight vehicles when the new motorway opened. I would like to hear the Minister's views on the cost of tolls for commercial vehicles. At Portlaoise, for example, the current toll for a vehicle with four or more axles is €5.70. For businesses that would have a large number of commercial vehicles using the road network, such tolls would add significantly to the cost of doing business. I would like to hear the Minister's views on the matter. I am concerned, as many in Fine Gael are, about addressing the weaknesses in the economy around cost and competition. However, in the case of tolls, perhaps the benefit to businesses makes it worth their while in terms of the time that is saved transporting goods. I would also like to hear the Minister's views on tolls in general. We have a significant challenge ahead of us in trying to address the catastrophic economic heritage that the Government was saddled with upon taking office. The opportunities to increase Exchequer income are not unlimited and tolls may be something that become more common in the future.

Before leaving the topic of the M8 motorway, I must refer to a matter in my own county of Kilkenny. The new road does not take account of the location of a major commercial entity in north Kilkenny, namely, Glanbia. Glanbia trucks coming from Cork have to exit the M8 motorway at Urlingford and travel along the N8 road as far as Durrow to reach the factory at Ballyragget. There is no suitable exit from the motorway closer to the factory so the trucks have to travel almost 20 km on the N8 road rather than having the benefit of the motorway. That is adding to the problems previously mentioned in the small towns and villages of north Kilkenny and south Laois which find the streets still populated by commercial vehicles despite the construction of a new motorway right beside them.

While on the topic of commercial vehicles, I must refer to the Port of Waterford, which is actually located in County Kilkenny. Senator Cullinane will be aware of that. Members will have been taught in national school that Kilkenny is a landlocked county but we have the Port of Waterford.

Senator David Cullinane: It belongs to Waterford.

Senator Pat O'Neill: It is the Port of Waterford but it is in County Kilkenny. The port is a fantastic employer in the area and its location as the closest multi-modal port to continental Europe means it is of key strategic importance. The Minister, Deputy Varadkar, is no doubt familiar with Waterford as he has many relations in the area. Perhaps on another occasion he will speak to the Seanad about the ports and what plans he has for their future.

While commercially we associate the ports with economic success, there is another side to the story too. Unfortunately, commercial vehicles can often be used by drug smugglers and human traffickers. Perhaps the Minister could outline to the House what co-ordination exists between his Department and other relevant Departments in this context, including the Department of Justice and Equality and the Department of Finance. Addressing smuggling issues requires strong interdepartmental co-ordination. This country is often referred to as a soft touch in terms of the ease with which drugs and, sadly, vulnerable people can be smuggled in, which is an issue that requires urgent attention.

To return to the Bill, I strongly welcome the improvements that it will introduce to the commercial road transport sector. The Minister has singled out three key improvements, namely, the strengthening of the existing provisions regarding the fitness and suitability of operators to engage in the profession, the provision of greater access to information in order

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that the public can find out who is licensed, and the imposition of much greater penalties on unlicensed operators and the provision for new offences aimed at improving compliance by existing operators. These provisions are clearly underpinned by a desire to protect public safety by introducing greater professionalism and transparency to the sector.

The reason we are dealing with this Bill in an expedited manner is to ensure that certain existing provisions remain in force after 4 December, in particular, that road passenger transport operations must be licensed, that operating without a licence will be an offence, that fees can be charged for passenger transport licences, that the appeal provisions where an application for a road passenger transport licence is refused or where such a licence is withdrawn will continue to apply, and that exemptions from the requirement to have a road transport operator licence will continue to apply. These include the carriage of mail and funeral transport. The Minister has indicated that he intends to introduce a consolidated road transport Bill in the near future. That would be an excellent initiative which would prevent the need for him to introduce legislation to keep existing measures in place, such as is the case with the Bill before the House.

I welcome the Minister's announcement, which has nothing to do with the Bill, that he is to introduce roadside drug testing for motorists in order to clamp down on drug driving. When the legislation comes before this House and the Lower House it will receive unanimous support. I congratulate the Minister on the matter.

I also congratulate him on introducing the Bill today. He has been before this House on a frequent basis since assuming office, which is an indication of his dedication to his brief and his high work rate. I wish him continued success and I look forward to continuing to work with him in the future in my capacity as Fine Gael spokesperson on transport in this House.

Senator Sean D. Barrett: I welcome the Minister, Deputy Varadkar. I always enjoy my discussions with him. I am pleased there is to be a further Bill next year. That is essential. We must stop having stop-gap measures. The previous Bill was exactly two years ago when the then Minister, Mr. Noel Dempsey, announced with public relations and accompanying documentation that he was revolutionising the regulation of the bus business. He did nothing of the sort. He maintained the monopoly of CIE and gave it every penny of subsidy without competitive tendering, and he gave it automatic access to huge investment grants. In saying he was opening up the bus business in a consumer-oriented way, he was doing the exact opposite.

That seems to be the precedent the Department of Transport has set. The Minister also brought in an earlier signature motion and had to chase after President McAleese to sign the Bill earlier. Now we are asked to do the same with the new President. The Department of Transport needs to pull its socks up on some of these matters such as meeting EU deadlines.

This is not a good Bill. The red herring of safety has been raised yet again. The Department always does that. In the screening impact analysis for the previous Bill it said the people it does not like are always unsafe compared with the people it does like. That is the Department that presided over the Kentstown crash for which CIE was fined €2.5 million, the Wellington Quay crash, for which there has been no account, and the Malahide railway viaduct collapse. Will the pot please stop calling the kettle black? This is the last refuge argument the Department uses against people it does not like, that they are unsafe and must be registered.

I wish to put the case for the sector that has been portrayed as needing this criminal legislation, which includes fines of €500,000 and three years in jail. When the then Minister, Mr. Peter Barry, opened up the freight sector in 1986 over a two-year period, it had approximately 1,000 vehicles and approximately 9% of the market. It currently has 72% of the market, 27% for own account transport, as Senator O'Sullivan mentioned, and only 1% left on the railways.

One could ask how it got there. The sector knocked on the doors of Irish industry and said it could do the job better than the in-house fleet or the railways. It won that argument. The sector went from 1,000 vehicles when the then Minister, Mr. Peter Barry, deregulated the industry to 25,000. That is normally called entrepreneurship and success. That should be recognised.

The Department's track record against these people began in 1933 when the then Minister, Mr. Seán Lemass, said he hoped it would be possible for the Great Southern Railway and the other railway companies to establish what he described as a monopoly position. Fine Gael was of the same view at the time. In the previous year when the then Minister, Mr. McGilligan, was getting rid of more than 1,000 independent bus companies, he said he looked forward to seeing them disappear by degrees. They have not. They own 79% of the bus vehicles. The Department has spent 79 years trying to put people out of business, yet they have 79% of the vehicles. It is a remarkable tribute to the inefficiency of the Department of Transport. The private sector has 4,890 vehicles, Dublin Bus has 1,200 while Bus Éireann has 700.

On the implications of criminality that underlie the Bill, butchers, bakers and candlestick makers, if they commit crimes, should face the same sanctions as people in transport. The people in transport have a proven record of surviving. They have approximately 44% of the receipts in the bus sector and 79% of business in the haulage sector. They are of professional competence, of good repute and of sound financial standing. If one is looking for people who infringe those criteria I could nominate accountants, bankers, the Department of Finance, builders who have built houses that fall down, and maths teachers who have no qualifications in mathematics, but to pick on this sector as not showing professional competence, good repute or sound financial standing, given its success against strong Government opposition over the past 70 years, is bizarre.

In the Non-Fatal Offences against the Person Act the fines are €1,500 and 12 months imprisonment. If the person operates a transport business the fines are increased to €500,000 and three years imprisonment. If we have problems with crime I would support increasing the first penalties but assuming that the transport sector, particularly the independent sector, requires special treatment because it is especially prone to criminality requires evidence.

Mr. Jimmy Farrelly carried out a report for the previous Minister, dated 12 June 2009, on a disputed licence in County Louth. He noted the apparent non-existence of any history of cases which were refused or revoked on the good repute consideration. He said that officials were also mindful of the need to band the constitutional right of an individual to earn a livelihood against the nature of any offence committed. A view has been taken during the years that the courts, in general, would not support the refusal of licences. There was a belief the refusal of licences would be overturned by the High Court. It appears it is not acceptable to commit an offence and then go on to become a road haulier or bus driver, but it does not matter if one becomes a banker, a builder, a butcher, a baker or a candlestick maker.

Mr. Farrelly recommended that a clerical officer deal with issues to do with good repute, that a higher executive officer deal with minor offences and that major offences be referred to headquarters from Loughrea to be dealt with by a principal officer or an assistant secretary. In his view, very few cases would arise in this category. He recommended that the Garda look at 10% of new applications and check 5% of licences after five years. If we have formed the view that road transport in the independent sector is riddled with criminals, evidence of this must be available, but that view is not supported by Mr. Farrelly's report. I see this as a long standing prejudice on the part of the Department of Transport against anybody other than its own transport companies being allowed to operate.

[Senator Sean D. Barrett.]

If we are to impose new duties on persons who operate transport companies, we must also place a new duty on the Minister to reply to their applications. I know he has done much to correct the situation. Mr. Justice McMahon, in the Swords Express case in 2010, said the applicant, Swords Express, had been doubly disadvantaged by the way the Department had held on to his application and then leaked it to CIE in order that it could get in on the route. If there has to be a reply within 21 days, the Minister should have to reply to licence applications within three months. That is where there was impropriety in the Swords Express case and Mr. Justice McMahon was extremely critical of the conduct of the Department in dealing with the company in that regard. Many of the faults in this area lie with the Department, not the operators.

The section of EU law we are transposing into Irish law on the requirement that the Minister respond within three months should be included in this Bill. There is also a section of EU law that exempts slow moving traffic travelling under 40 km/h. If we are transposing EU law, let us transpose the bits that would benefit the consumer rather than those that impose yet more restrictions. There is much that is wrong with the Bill and I will be tabling amendments on Committee Stage.

I return to one of the judgments that was crucial in the taxi deregulation case. Mr. Justice Roderick Murphy said people had the right to enter a sector for which they had the skills and training and that the public had the right to avail of the services of such persons. In the case before us, the State had its own ideas on transport. It wanted monopolies and to assist the railways. However, the independent hauliers, despite all the obstacles put in their way, dominate 79% of the fleet and 72% of the freight business by being of good repute, having good financial standing and professional competence. For the Department even to hint, at this late stage, that the industry does not have these three characteristics reflects badly on it. That it is, yet again, asking the Oireachtas to meet December deadlines, as it did in the case of buses two years ago, is wrong. There needs to be a full evaluation. That is why I welcome what the Minister said. Evaluation is long overdue, but this is not it. If we can have entrepreneurship in this vital sector of the economy and do not criminalise it, we will be doing very well.

Senator James Heffernan: As previous speakers said, the Bill seems to have been hurried and rushed. However, I welcome the Minister's commitment to introduce more considered road transport legislation next year.

Road haulage is an important part of the economy. There are 25,000 large vehicles on the roads, operated by hauliers here and elsewhere in Europe. The number employed in the industry is significant. Senator Ned O'Sullivan who I hope will not cabotage any taxi drivers this evening has pointed out that there are approximately 50,000 employed in this sector. It is important that the industry is operated correctly and to the highest standards.

I welcome the three improvements outlined by the Minister. As the Bill deals with those who transport goods and people across Europe, it is only proper that those responsible for this carriage are, as the Bill states, of good repute.

Certain traffic convictions will allow for the refusal of a licence. This is only right, as a road safety measure. As many Senators know from travelling regularly on the roads, it is imperative that operators be safe, responsible and reliable. It is now in their hands to ensure their vehicles and drivers are up to scratch.

Senator Séan Barrett referred to the time allowed to respond to licence applications. Will the Minister confirm that the deadline of three months is stated in the Bill? It is my understanding that the Department will be required to reply to an applicant within three months, as I am sure the Minister will confirm.

Every year schools embark on European tours using Irish and European bus companies. Every parent in the country will rest easier in the knowledge that a convicted criminal will not be responsible for transporting their loved ones from Barcelona to Paris, for example.

I thank the Minister for his presentation and welcome the Bill.

Senator David Cullinane: I welcome the Minister and join previous speakers in welcoming the Road Transport Bill 2011. In so far as it deals with the character of licence holders and the people they employ, the Bill is similar to that applying to private security firms. Its purpose is to amend provisions included in the Road Transport Acts. It will give effect in primary legislation to a number of measures currently provided for in regulations but which will be affected by the coming into force of EU regulations. It will also make provision for amendments to the, so-called, good repute aspects of road transport.

I appreciate the intention of the Bill and the Minister in bringing it forward, but I also see the Bill's limitations. I appreciate the fact that the Minister intends to introduce a comprehensive road transport Bill. I hope that will happen in the coming year and look forward to him bringing forward these proposals. I hope also that many of the issues raised in the debate on this Bill, including those raised by Senator Séan Barrett, will be dealt with in the comprehensive road transport Bill at which the Minister is looking. The Bill provides for a number of house-keeping reforms in road transport. Therefore, I have little difficulty with the intentions behind the Bill.

As Deputy Shane Ross noted in the Dáil, this is an area in which we need further information and a greater awareness of what we are dealing with. A number of Members have made the point that there are 70,000 licensed operators and that 25,000 large vehicles associated with these operators are on the road. However, we do not have the full picture. How many unlicensed operators are there and how many vehicles are associated with them? Does the Minister have this information, or is it something he could bring back to the House? It may be that such information is impossible to get because such operators are under the radar. We need a full picture of what is happening.

Will the Minister clarify a number of points raised in the Dáil on the powers he will have? He will have the power to refuse licences and question convictions. We have a concern in this regard, especially where a licence is essential to a person's livelihood. Who will make the decision to refuse a licence? The Minister could consider alternative authorities which might be in a position to adjudicate on these matters and provide appropriate safeguards. This is very important.

The Minister will be aware two issues were raised in the Dáil by Sinn Féin and we believe these were not dealt with adequately. The first issue concerns the status of individuals who were released under licence under the terms of the Good Friday Agreement. At least two Deputies who contributed to the debate could not, under this legislation, hold haulage licences. Many other Deputies, from a variety of parties, including one of the parties in Government, could find themselves in similar position. As the Minister knows, many former prisoners are teachers, lecturers, politicians or Ministers in the power-sharing Executive in the North. He knows that many individuals who have been involved in organisations that were involved in armed political struggles are now Ministers sitting at a Cabinet table.

Sinn Féin believes it is very important to distinguish between people with a criminal record and those who have been political prisoners. The majority of people on the island of Ireland voted for the Good Friday Agreement. They voted for prisoners to be released on licence under the terms of the agreement, to be released as political prisoners. I find it amazing that somebody can be a Deputy in the Lower House or a Minister in a power-sharing Executive

[Senator David Cullinane.]

yet cannot hold a haulage licence. Many of these people have doctorates, many are leaders in their communities and involved in community development work, many are lecturers or teachers and others are in different fields. As we know, political prisoners played a huge role not just in bringing about peace but in building and sustaining it. If we are to embrace all of the concepts of political conflict resolution, we must distinguish between people who were involved in criminal acts and people who were involved in acts for the purposes of a political struggle. That is our point.

There was significant heat in the debate which took place in the Dáil, but I hope it will not be similar here. I hope the Minister has had time to reflect on what was said in the Dáil and on the genuine issue we are raising. We cannot have it both ways. We cannot say we support the Good Friday Agreement, vote for that agreement — as did 90% of the people on this part of the island and over 70% of the people in the North — and say we are in favour of it, the peace process and the release of political prisoners by both the British and Irish Governments without differentiating between criminals and political prisoners. It would be wrong for the Minister not to make that differentiation. I hope the Minister will take on board the amendment we will table to deal with this issue and I look forward to his response. Unfortunately, despite the fact we support the Bill, if the Minister is not minded to support our amendment, we will be forced to vote against the Bill. As a party, Sinn Féin cannot stand over a situation where political prisoners are being prevented from taking up job opportunities in this sector.

I mentioned already the comprehensive Bill the Minister is considering with regard to road transport. I support the call made by Senator O'Sullivan to look also at taxi regulations and the taxi industry in that regard. The Minister may remember an RTE programme not so long ago that looked at the taxi industry and which raised many issues. The majority of taxi drivers are legal and do a good job, but there are issues in the industry. I hope we will look at similar provisions to those we are considering here with regard to haulage companies and consider bringing them in for the taxi industry. Many former prisoners are taxi drivers. How is it the case that it is all right to be a taxi driver but with this Bill the Minister is not in a position to differentiate between people who were convicted of crimes and political prisoners? I hope the Minister takes on board the amendment we will table in the spirit in which we will table it.

Senator Deirdre Clune: I am grateful for the opportunity to contribute on this Bill. We will have debate next year on a road transport Bill, but none the less this is important legislation to ensure the directive is in place by 4 December. I do not know where the fault lies with regard to bringing it forward so late, but I am sure the Seanad and committees can build on the work we are doing now on dealing with EU regulations and directives. This work will give an opportunity to both Houses to look at what is coming down the tracks, a facility we have not had previously. Until now, many directives have been nodded into place and the first we heard of them — perhaps we should have informed ourselves — was when they were presented as legislation, often in an emergency situation.

This legislation is important because we have so many road hauliers and transport operators. Not alone do they operate here, they also interact internationally and it is important their licences to operate are not impeded. Therefore, we must ensure the legislation is enacted speedily and is not stopped in its tracks. Our exports are very important. Figures from the Irish Exporters Association show exports were valued at €161 billion last year and these figures are increasing year on year. However, when we look at internal figures on the transport of goods and services, they have fallen on an all-island basis. The figures we have from the CSO show that last year there was a decrease of 50% and that overall figures since 2000 are down 34%. This is a concern.

It is important we support road hauliers and the transport sector, particularly when we have invested so much in our road network. Road haulage also provides a flexibility we do not get with rail transport operators. Road hauliers are more flexible and operate at all times, including at weekends and throughout the night as anybody who travels our roads at night sees. Hauliers have reacted speedily to changes in the economy and new developments in the road network. For example, we have seen large distribution centres established throughout the country specifically to supply supermarkets and retailers, and transport hauliers are a vital cog in this. I know we could debate these distribution centres as they affect other issues. None the less, road hauliers have been proactive in reacting to change and they provide a flexible and reliable service. I commend them on how they carry out their business.

This legislation should be welcomed, particularly as it will establish the good reputation of operators. This is important. Anybody who operates in the haulage business must welcome this as it will ensure that those who operate illegally and with unlicensed vehicles will be disciplined. Illegal operators can be fined and these fines are now much higher than previously, up to €500,000 or three years in prison. This should act as a deterrent and provide comfort to those who have been operating legally within the system. In every operation there are always those who try to undermine it, cut corners and fail to comply with legislation. Therefore, it is good that through this legislation those of good reputation will have some standing. The Bill provides that the public can access the register of legal hauliers on the Internet. Up to now access to this register was restricted and only people who took the time to visit the Minister's office could view it. Now it will be accessible at all times on the Internet.

We must remember that this legislation is not all about road transport. It is also about the transport of passengers, which is a serious and onerous responsibility. We must ensure we have proper legislation, proper controls and a proper licensing system in place for such operators which may access the Continent and drive internationally. We must ensure we have a seamless system of standards. Therefore, this legislation and the directive to be put in place are very important.

We received correspondence recently from the Irish Road Haulage Association about washed diesel. It has been brought to my attention on a number of occasions and it has been raised at various meetings we have attended. The Irish Road Haulage Association recently described it as being at epidemic levels. Washed diesel now accounts for almost 12% of the road diesel market with an estimated loss of €155 million per annum to the Irish economy. The solution put forward is for a one-colour diesel model to be implemented. If combined with a fuel rebate system, it would allow legitimate users of marked diesel claim a rebate based on usage. Something must be done about it. We hear about it anecdotally and occasionally we hear of raids by customs officers. Given that it is such a loss to the economy at a time when increases in excise duties have been mooted, it should be tackled. Reasonable proposals have been put forward and they should be considered.

I refer to road tolls and the effect they will have on transport and trade. We discussed this before and, if I may be parochial, I am particularly concerned about the Lee tunnel in Cork which has been in place for quite a number of years. It has not been tolled but I would be interested if the Minister has any information on the contribution EU funds made to the tunnel. I am not sure if it was built using cohesion funding but it was built with funding from the EU taxpayer, including our own taxpayers' money. Can the National Roads Authority introduce a toll at this stage, in particular since the tunnel is used for economic activity in the city, both north and south? It is not for people bypassing the city. Tolls have implications for road transport costs. From a competitive point of view, tolls increase costs for exports or products being sent abroad.

Senator Catherine Noone: I welcome the Minister. I agree with this Bill. Despite the urgency with which it must be passed — I note Senator Barrett's comments and agree with him to a

[Senator Catherine Noone.]

point — I welcome the fact that the Minister is considering introducing more detailed legislation next year. We hope many of the amendments Senator Barrett proposes to table tomorrow will be included in that. We must be reasonable in this House.

Two aspects of this Bill strike me as important. I refer to expanding the relevant offences in the applicant for a road haulage operators' licence to include a broader range of offences. These included drug trafficking as well as other serious convictions. My understanding is that an offence under the Criminal Law (Human Trafficking) Act 2008 has been added on the advice of the Attorney General's office, which is a sensible addition. It is important to note that the kinds of offences about which we are talking are very serious ones. Somebody with a minor criminal record will not be precluded from being a road haulier. That is not the intention of the Bill and we should not get carried away with this kind of thought.

The list of positions to which the offences apply can now include directors of organisations, business partners and drivers in passenger transport operations. This is a really good idea in so far as we need to keep these serious criminals out of the industry or, as Senator Heffernan said, prohibit them from carrying children, and so on.

I welcome the Bill and compliment the Minister and his Department on their work.

Minister for Transport, Tourism and Sport (Deputy Leo Varadkar): I thank Senators for their contributions and co-operation in getting this Bill passed. As is often the case, better points were raised in this House than perhaps in the other one. The advantage of fewer speakers always helps a little bit. Senator O'Sullivan said this was rushed legislation. It is not really rushed. It is sound and I have every confidence in the Dáil and the Seanad identifying any flaws which may be in it as part of the parliamentary and scrutiny process. If any flaws arise at a later stage, I will share responsibility for that with the good Members of this House and the other one.

Admittedly, it is urgent legislation and I apologise to this House for introducing the Bill in this way without giving it the notice and respect it deserves in that regard. I am also conscious that it is the second time in eight months that I have come to this House and the other one with legislation which had to be brought in before a particular deadline. I am not very happy about that. In less than ten months, I have asked for an earlier signature motion on two occasions. It is not always the fault of the Department of Transport, Tourism and Sport. Sometimes the Attorney General's advice comes at a late stage and sometimes the Office of the Parliamentary Counsel is not able to get things done in time. However, I have expressed my concerns about that to my Secretary General and officials and it is my intention that when I come back to the House with road transport or road traffic legislation, it will be comprehensive, well thought out after wide consultation and not a piece of a Bill which must be brought in because it could not be done in time or for some other reason.

In response to Senator O'Sullivan, this relates to somebody who has a conviction for a serious crime. That person's requirement is only to inform the Minister. It does not automatically ban anyone who is guilty of these convictions from getting a passenger transport or road haulage licence. The Minister needs to take it into account in making the decision but there is not an automatic ban. The fine is €500,000, which is a maximum one. When levying fines, judges will perhaps levy fines much lower than that. The current maximum is just over €6,000 and I think we all agree that is too low. We set a very high bar here to give the Judiciary substantial discretion in what fines it may levy. I guess we are also providing for hyper-inflation. Should that occur in the next few years, we will not need to come back to amend this legislation.

I confirm to Senator O'Sullivan that the transport of agricultural produce, such as turf, milk and so on, is still exempt and it is stated in other legislation, so I do not need to restate it in this Bill. Again, it shows the advantage of having consolidated road transport legislation which

would be easy for people to use and would cover all the exemptions in one place instead of in different places as is the case now.

In regard to transport operators acting on their own account, that is not regulated at the moment and, therefore, is not covered by this Bill. I refer, for example, to a company like Tesco which does its own distribution. In the North, that is now falling under regulation and we may consider a permit system in the future. The RSA is looking at that but for now, we do not propose to regulate operators that transport their own goods and do not charge for it. It is different when one is carrying one's own goods and one is not charging for it or looking for reward.

In regard to cabotage, quite frankly, the system is daft. I only learned about it in recent times and it is really a daft system. We have a single European market and I cannot understand why we do not have a single market in transport. If I want to fly an aeroplane, we have open skies but one cannot do that in haulage for some reason which I do not understand. The provision for cabotage issues is included in EU regulation No. 1072 which has direct application. I will make necessary national regulations this week to set out the offences and penalties and I will set a maximum penalty of €500,000 for conviction or indictment with regard to cabotage offences. The cabotage provisions themselves cannot be changed as they are set out in EU legislation. The application of those regulations in any member state is a matter for that state.

I am aware of the desire of the industry for clarity in regard to cabotage, in particular in the UK. My Department has been engaged in bilateral discussions with the UK authorities to see if guidelines on the application of cabotage can be put together for the information of operators.

The House might be interested to know that the opening up of the national and international markets is a European Commission policy under its transport White Paper for 2011 to 2020. I support this objective and, if I am still in office, I hope to be able to make progress on this issue as President of the transport Council in 2013.

Taxi regulation is a matter for the Minister of State, Deputy Kelly. It is being reviewed and I expect he will propose legislative changes in the Houses in due course.

Tax and excise are matters for the Minister for Finance. He is aware of my views on further taxes and excises on petrol and diesel. From a public transport point of view, the cloud has a silver lining. Although increased excises and taxes on fuel increase costs for CIE and private operators, they encourage more people to use public transport. This must be borne in mind, given that transport is the second largest contributor of CO₂ emissions, contrary to many Opposition Senators' claims that it is the largest.

Senator O'Neill discussed toll evasion by hauliers. While it occurs, judging the level is difficult and I have seen no good research that has been able to assess the scale. Since most toll plazas are contracted public private partnerships, PPPs, neither I nor the National Roads Authority, NRA, have the discretion to vary the tolls. Rather, they are varied in line with inflation. In the long term, a vignette system would be the best, whereby a haulier would buy a pass and be able to use motorways freely for a year or however long. Such a system would be complicated, though, as we would need to renegotiate agreements with the PPP operators. Many of them are losing money and would love an opportunity to re-open negotiations, but these would be for their benefit and not necessarily the benefit of motorists or taxpayers.

It is important to point out to the sector that heavy goods vehicles, HGVs, do more damage to road surfaces than the average person in a small car. They pay the highest tolls to contribute their share to roads' upkeep.

Senator Barrett claimed that the sector was being picked on, but that is not the case. The vast majority of hauliers, road transport operators and passenger operators are of good repute. However, there is a problem with compliance among private and State operators in many parts

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of the sector. The industry is being licensed and regulated and is not being picked on. We are aiming for good repute, which is covered in the regulations.

The Senator made a valid point about butchers, bankers and other professionals who either do not need to be licensed or do not need to jump through hoops like these. Issues of proportionality must be taken into account during the full review of the legislation and in future legislation. However, many of the Bill's provisions were included for a reason. For example, there is an obvious reason one would not want to give a haulier a licence if he or she had a conviction for drug smuggling or human trafficking. If the Department of Transport, Tourism and Sport or another body gave a convicted drug smuggler or human trafficker a licence, it would find itself in a difficult position if the person repeated those acts. A similar issue arises in respect of passenger transport operators. If someone was a convicted paedophile, rapist or murderer, questions would be asked if a Department or Government body gave him or her a licence to drive people at night, as the person would be exposed to vulnerable people on their own.

The situation is not the same as that of a butcher or candlestick maker. Particular issues relate to this industry. However, the Senator's general point was valid and we must ensure that the licensing requirements applied to the sector in future are proportionate and reasonable and that we are not merely devising a list of serious convictions for the sake of it, in that they must be relevant.

The licensing, good repute arrangements and enforcement provisions apply equally to CIE companies as they do to private operators. Under current regulations, the Department is required to reply within three months to an application for a licence.

Regarding Senator Cullinane's comments, I do not wish to repeat last week's debate in the Dáil. The requirement under the Bill is for the Minister to be informed of an applicant's convictions. It does not require the Minister to refuse a licence. Anyone can appeal a decision to the District Court. Anyone who has been released under the terms of the Good Friday Agreement can inform the Minister of the former's conviction for money laundering or murder and release under the agreement. The Minister would be in a position to take that information into account. Irrespective of whether the Senator likes it, though, it is a fact that those released under the terms of the Good Friday Agreement were released on licence. They are still convicted criminals. Their convictions are not spent and have not been expunged by the agreement. If a decision is made to expunge their convictions, it should not be done under this legislation. Rather, it would be a broader policy decision for a Government to make. Confession comes before absolution. When we still hear crimes such as murder, manslaughter, money laundering, fraud, arson and so on being described as politically motivated, there is still a little further to go in terms of confession before we can reach the point of absolution.

Regarding Senator Clune's remarks, I do not want to comment too much on tolls at this point. We are in the middle of a budgetary process and nothing is fully decided. I do not know what EU funds were spent on the Lee tunnel, but this matter is not necessarily relevant. Given that we toll other roads that received money from the Structural Funds, the Lee tunnel would not be precluded, but no decisions have been made. In making decisions, I will be conscious that there are ways other than tolls to raise revenue. Given the increase in VAT and the potential increases in carbon tax and excise rates in the forthcoming budget, slapping on toll increases as well might be too much.

The Bill addresses a number of urgent items for reasons connected with EU legislation. I intend to review road transport legislation from a broader perspective. I hope to be in a positive to introduce a comprehensive road transport Bill next year to replace the existing Acts and to set the direction for road transport policy in the coming years.

Question put and agreed to.

Acting Chairman (Senator Imelda Henry): When is it proposed to take Committee Stage?

Senator Catherine Noone: Tomorrow.

Acting Chairman (Senator Imelda Henry): Is that agreed? Agreed. When is it proposed to sit again?

Senator Catherine Noone: At 10.30 a.m. tomorrow.

Adjournment Matter

Health Services

Senator Martin Conway: This is a case with which I am very familiar. It concerns a seven year old boy with intellectual disabilities who requires attention and intervention. He was attending the autism unit in Inagh national school, north County Clare, which unit has a proud reputation for achieving a lot in early intervention and ensuring children can be in the mainstream as much as possible. The boy in question had made significant progress since attending the unit and was in the mainstream classes for maths and English. Teachers were extremely pleased with his development, as were his parents, family, friends and neighbours. I know him and could see the improvement. Unfortunately, in recent months he has taken a significant step backwards. His behaviour is out of character compared to how he had been for a number of years. Something is fundamentally wrong. His family is at the end of its tether; his behaviour is so bad that, for health and safety reasons, he has had to be moved from school to home. He has had to return home on a number of occasions. His behaviour is inexplicable. The problem is that in recent years he has had not sessions with an occupational therapist. In spite of the family and the school principal ringing two or three times a day for the past month, the early intervention service based in Ennis has failed to provide for an assessment or send an occupational therapist to identify the root cause of his inexplicable behaviour.

The Minister of State has a proud record in this area. Children are extremely important and the Government has appointed a Minister for Children and Youth Affairs. Its commitment to this area is clear, but it seems there is a blockage. I would not have taken the unusual step of submitting a matter for discussion on the Adjournment unless I had reached the end of my tether in seeking to resolving the matter for the family. It needs urgent attention. I plead with the Minister of State to ensure the systems of State do not let this boy down.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I am taking this Adjournment matter on behalf of my colleague, the Minister for Health, Deputy James Reilly, and thank the Senator for raising it. I am pleased to take the opportunity to outline the current position on the staffing of occupational therapy posts in County Clare.

Under the Health Act 2004, responsibility for the management and delivery of health related services to individuals, including governance issues about the allocation and expenditure of funding for disability services, was vested in the HSE which is allocated funding directly from the Exchequer annually to fund the various health related services to individuals. Therefore, it is a matter for it to prioritise where this funding is allocated. It must manage the many demands on its services against the level of funding that can be made available. It cannot, however, guarantee that funding will be available for the type and location of every service requested.

On the Senator's question regarding the individual mentioned, the HSE has advised me that he is attending Clare school services and that the team, including the occupational therapist, is

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aware of the issues identified by the family in recent weeks, particularly his deteriorating behaviour in school. I have been assured that the HSE is in contact with the child's mother. It will engage with the team to seek a further update and ensure the services required are provided.

Expenditure on health services for people with a disability will be approximately €1.5 billion in 2011. Special consideration was given to disability and mental health services in budget 2011 through a maximum reduction of just 1.8% in the allocation for the two sectors. The relatively low reduction of 1.8%, compared to other areas of the health budget that saw reductions of up to 5%, recognises that these services are provided for vulnerable groups and to ensure existing services are maintained and that priority is given to the delivery of front-line services. An additional €10 million was also provided as demography funding in 2011. However, despite this substantial amount, the Government acknowledges the significant demand for new services and that there is a growing requirement to enhance existing services. This demand is driven by a combination of the growth in numbers of people with disabilities seeking services and the fact that people with disabilities are living longer, thankfully, owing to improvements in medical treatments and standards of care. This has led to a situation where demand for disability services always exceeds supply in any given year.

Services have been developed over time by individual service providers or former health boards and reflect the individual experiences and expertise of providers in meeting local needs. This has led to variations in the way services are configured and, in the provision of supports for children with disabilities, the HSE has recognised the need to enhance the level of consistency and standardisation in the way early intervention services and services for school-aged children with disabilities are delivered. The reconfiguration of existing therapy resources to geographic based teams for children and young people has been identified as a priority and is a key result area in the HSE's national service plan 2011. National, regional and local level structures are being put in place to progress this initiative which will have a positive impact on the assessment process for children with disabilities and the provision of appropriate clinical services and supports for them.

Senator Martin Conway: I thank the Minister of State for her comprehensive reply on behalf of the Minister for Health. The fact remains, however, that the child's mother has reached the end of her tether. The Minister has been in contact with the HSE and realises, through the school and the family, that there are issues that need urgent attention. This issue must be dealt with urgently. I know that resources are very tight, but the position is very serious. I, therefore, ask the Minister, through the Minister of State, to notify me when the child will receive a visit from an occupational therapist. This must happen within a number of days, not weeks, because the family is extremely concerned about the boy's safety.

Deputy Kathleen Lynch: I will endeavour to find that information for the Senator. I take it from his contribution that the boy is only starting to display this behaviour. The important point is that it be dealt with as urgently as possible because allowing such behaviour to become embedded causes difficulty. I am sure his parents are very distressed at this turn of events and I hope intervention by me and the Minister for Health will mean we will be able to progress the issue as quickly as possible.

Senator Martin Conway: That is appreciated. I thank the Minister of State.

Acting Chairman (Senator Imelda Henry): In the absence of Senator Brian Ó Domhnaill the House will adjourn.

The Seanad adjourned at 6.10 p.m until 10.30 a.m on Wednesday, 30 November 2011.