



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	549
Order of Business	549
Employment Permits (Amendment) Bill 2012: First Stage	569
Action Plan for Jobs: Statements	569
Ninth Report of the Committee of Selection: Motion	586
Fiscal Responsibility Bill 2012: Committee and Remaining Stages	586
Adjournment Matters	604
Road Network	604
Commission of Inquiry	606
Primary Care Centres	610

SEANAD ÉIREANN

Dé Máirt, 20 Samhain 2012

Tuesday, 20 November 2012

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

An Cathaoirleach: I have received notice from Senator Colm Burke 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 outline the reasons the primary care centre situated at Harbour View Road, Knocknaheeny, Cork which has been completed for over four years has not been occupied; and if he will outline when the centre is to be utilised for the provision of health care services in the Knocknaheeny area.

I have also received notice from Senator Paschal Mooney of the following matter:

To ask the Minister for Transport, Tourism and Sport whether he or his officials have had discussions with the NRA on the motorway projects that should be given priority.

I have also received notice from Senator John Kelly of the following matter:

The need for the Minister for Justice and Equality to establish a commission of inquiry into the murder of Fr. Niall Molloy.

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, motion re revision of Standing Orders (Private Business), to be taken without debate; No. 2, statements on the Action Plan

for Jobs, to be taken at the conclusion of No. 1 and conclude not later than 5 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed three minutes and the Minister to be called on not later than 4.50 p.m. and on which Senators may share time; No. 3, Fiscal Responsibility Bill 2012 - Committee and Remaining Stages, to be taken at 5 p.m. and conclude not later than 8 p.m.

Senator Darragh O'Brien: Will the Leader state the Government's position and policy on advertising vacancies in Departments and State agencies? There is an unbelievable situation. Last week I raised the issue of the appointment by the Tánaiste of his fourth special adviser at a cost of more than €80,000 a year, bringing to more than €500,000 a year the total cost of his special advisers. The most recent appointee is a media adviser. We find out with great interest today that the Tánaiste's wife who will cease working in the VEC when it is disbanded has been given a position, starting from next year, with his Labour Party colleague-----

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

Senator Darragh O'Brien: It is relevant and I will tell you why.

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

Senator Darragh O'Brien: Following the Order of Business we will debate the Action Plan for Jobs. I wish to know what the Government's position is on advertising vacancies. Is it aware that there are nearly 450,000 people out of work?

An Cathaoirleach: Each individual is entitled-----

Senator Darragh O'Brien: I did not mention the individual's name.

Senator Ivana Bacik: The Senator identified an individual.

Senator Darragh O'Brien: Is the Senator uncomfortable with this?

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

Senator Darragh O'Brien: I do, if I am allowed to ask it. What is the Government's policy on advertising job vacancies within the public and Civil Service? Is it Government policy to appoint an individual without there being any public advertising of the job and an individual to a position in the Department of a Labour Party colleague? Furthermore, will the Leader confirm that the Minister for Education and Skills knew nothing about the issue and that neither did the Tánaiste whose wife has been appointed as a special policy adviser from January to work with the Minister for Education and Skills?

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

Senator Darragh O'Brien: Why is it irrelevant?

Senator Ivana Bacik: It is utterly irrelevant.

Senator Darragh O'Brien: I will not even talk about the Attorney General's office.

Senator Ivana Bacik: On a point of order, the individual involved is entitled to have a career in her own right.

An Cathaoirleach: Senator Bacik should resume her seat. Does Senator Darragh O'Brien

have a question for the Leader?

Senator Darragh O'Brien: I have asked the Leader to confirm the Government's position on advertising posts publicly. Is it the Government's position that vacancies should be advertised? If it is the Government's policy to advertise vacancies in the civil and public service why, in this instance, did no advertising or interviews take place? Basically, a Labour Party crony has been appointed to a €90,000 a year job to work with a colleague of the Tánaiste and Minister for Foreign Affairs and Trade in the relevant Department.

Senator Ivana Bacik: Rubbish.

An Cathaoirleach: That is completely out of order.

Senator Darragh O'Brien: It is not out of order.

Senator Ivana Bacik: On a point of order, the Senator is making outrageous comments about somebody who is not here and who is not a public representative.

Senator Darragh O'Brien: Excuse me, through the Chair-----

An Cathaoirleach: I have no problem with the general thrust of what Senator Darragh O'Brien is saying but naming individuals or alluding to them-----

Senator Darragh O'Brien: I did not name the individual.

An Cathaoirleach: She can be clearly identified.

Senator Darragh O'Brien: Okay.

An Cathaoirleach: I ask the Senator to refrain from naming or alluding to individuals.

Senator Darragh O'Brien: For clarity's sake-----

An Cathaoirleach: The Senator is over time.

Senator Darragh O'Brien: -----I have not impugned anyone's reputation, their experience or whatever, I am simply asking if it is the Government's policy to advertise vacancies in the civil and public service. If it is the Government's policy to do so, why, in this instance, did no advertising or interviews take place? Who decided to make an appointment without the job vacancy being advertised and an interview process being held? That is a relevant question and if Senator Bacik does not like it, that is tough.

An Cathaoirleach: I call Senator Bacik.

Senator Darragh O'Brien: If the Tánaiste and Minister for Foreign Affairs and Trade were in opposition and if something of this nature happened, he would occupy the highest moral ground in the country.

Senator Ivana Bacik: I am very disappointed with Senator Darragh O'Brien

An Cathaoirleach: Senator Darragh O'Brien is over time.

Senator Darragh O'Brien: We need an answer to this question and if Senator Bacik is disappointed that is tough.

Senator Terry Leyden: Jobs for the boys and girls.

Senator Ivana Bacik: I am very disappointed with Senator Darragh O'Brien. It is beneath him to make the sort of scurrilous allegations he has just made-----

Senator Mark Daly: It is not a scurrilous allegation, it is a fact.

(Interruptions).

Senator Ivana Bacik: -----about a professional public servant who is entitled to a career in her own right.

Senator Darragh O'Brien: I did not mention her.

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

Senator Ivana Bacik: The person in question has been redeployed. She has had a career in the public service for many years. The point being made here is really outrageous and scurrilous-----

Senator Darragh O'Brien: Was the job advertised?

Senator Ivana Bacik: -----and has absolutely no relevance to the political debate.

Senator Darragh O'Brien: Really.

Senator Ivana Bacik: I am quite happy to respond to political points but not those relating to the partners of politicians.

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

Senator Ivana Bacik: Yes. My question to him is whether it is appropriate to make this sort of allegation or to repeat allegations made in newspapers in respect of a person who has a career in her own right.

Senator Darragh O'Brien: It is not an allegation, it is a fact.

An Cathaoirleach: I have already ruled on this matter.

Senator Darragh O'Brien: I never mentioned the individual by name.

Senator Ivana Bacik: The Senator identified her.

Senator Mary Moran: Senator Darragh O'Brien made it-----

Senator Darragh O'Brien: Senator Moran should not be talking.

An Cathaoirleach: Senator Darragh O'Brien did not have to identify-----

Senator Mary Moran: On a point of order, how dare the Senator tell me not to talk?

Senator Darragh O'Brien: That is not a point of order.

An Cathaoirleach: Senator Moran should resume her seat.

Senator Ivana Bacik: Apparently, not only are women not entitled to careers in their own right, according to Senator Darragh O'Brien they are also not entitled to make points of order in their own right.

An Cathaoirleach: This is the Order of Business. Does Senator Bacik have a question for the Leader?

Senator Ivana Bacik: Yes. I have a question for the Leader on a separate matter of national and public importance, namely, the tragic death of Savita Halappanavar and its aftermath. Along with thousands of others - and carrying a Labour Party banner - I took part in Saturday's protest march. There is an enormous depth of public feeling, outrage and grief at the tragic circumstances of Ms Halappanavar's death. It is very clear that there is a need for the Government to act and to pass legislation to clarify the grey area that undoubtedly exists for doctors when confronted with situations such as that relating to Ms Halappanavar where the life of the woman is threatened by the continuance of her pregnancy.

I am glad the expert group's report has been published. That report is due to go to Cabinet next week and I expect it to be published immediately thereafter. I hope it will be debated in this and the Lower House. I ask that the Leader expedite matters in the context of holding a debate on the expert group's report in the Seanad in order that we might reach a clear Government decision on the need to legislate. On the latter, there has been some discussion with regard to the passing of secondary legislation or guidelines. From any objective legal analysis, it is very clear that secondary legislation would be subject to legal challenge unless it were introduced under the authority of an item of primary legislation. Such primary legislation does not currently exist. Even if the detailed criteria for doctors in cases such as that of Ms Halappanavar are set out in secondary legislation or are the subject of ministerial order, primary legislation will still be required.

On the specific issue of the tragic death that occurred in Galway University Hospital, I am extremely concerned with regard to the composition of the inquiry team. Savita's husband, Praveen, has also expressed his concern in this regard. He is quite right. The current make-up of the inquiry team is not legally robust. Including three members of staff from Galway University Hospital clearly breaches the legal principle of *nemo iudex in causa sua*, namely, the rule against bias. Experts from the hospital should not be included on the inquiry team. Their input could be much more robust as witnesses rather than as members of an inquiry panel who might well be compromised in any litigation. The inquiry must be conducted expeditiously. It seems far too long to suggest that it would take three months. It is clear that there is a need for the Government to move on legislation in the immediate meantime.

Senator Feargal Quinn: I wish to move an amendment to the Order of Business, that No. 14, the Employment Permits (Amendment) Bill 2012 be taken before No. 1 today. I hope there is consideration of that.

It is time for us to ensure there is a discussion on what is happening in Israel and Gaza at some point, but sooner rather than later. It seems to me that we must find a solution to the horror and terror that is being inflicted in that part of the world. I am sure that it is possible for a country such as this to have an input into the solution. Talks are ongoing in Egypt at the moment and it is hoped to reach a ceasefire, but I am not sure what stage the talks are at currently. It is clear from what is happening in the Middle East that we could do with having a discussion on it. We should do so shortly.

Another topic we debated in the Joint Committee on Jobs, Enterprise and Innovation last week was the smuggling of counterfeit tobacco and other items. We have debated the matter previously but there is so much evidence that the Garda or whoever is in charge – there is a doubt as to whether the drugs squad or the Garda should be tackling the issue – believe that the penalties suffered by those who are caught smuggling are not in any way commensurate with what is needed. This is a serious problem. I gather that if one goes down Moore Street at the moment almost every second stand has someone selling cigarettes. I gather that cigarettes are sold house-to-house also. The cigarettes are not just smuggled, they are counterfeit. We must take the necessary steps to tackle the issue. Other smuggling is taking place as well but that one needs attention. The Garda have scanners that enable it to identify smuggled cigarettes but only two scanners are available. Investment in a scanner that would identify the location of smuggled tobacco would be worthwhile. I hope we could have a debate on the issue shortly.

Senator Martin Conway: I wish to make one point on the ongoing case of Savita Halapannavar. I commend Senator Averil Power on her courage and bravery last weekend-----

Senator David Norris: Hear, hear.

Senator Martin Conway: -----for telling her story, which must have been difficult for her. True leadership is shown by example. She did herself proud last weekend.

I wish to raise an issue that has come to my attention in recent days, namely, the RTE drama, “Love/Hate”, and the absolute violence depicted on the programme. I understand that in last Sunday week’s episode a woman was brutally raped and the perpetrator was kicked to death. In last Sunday’s episode two people were murdered in cold blood. It is not for me to say whether it is correct or appropriate that taxpayers’ money would be spent on funding such a programme but every now and then it is probably a good idea to have a debate in the Houses of the Oireachtas on standards in the media. There is a school of thought that maintains that such dramas are appropriate because they reflect life in the cities of this country. Others believe that teenagers aged from 12 to 15 are still up after the “Nine O’Clock News” and watch such programmes and will be influenced by them. There is a fine line to be drawn. I accept it is difficult to strike a balance. The programme could serve the purpose of precipitating a debate on such an issue and for us to try to establish what is appropriate. While I commend those in RTE, who by and large do a good job, it is appropriate that we would have a debate on media standards in particular in drama.

Senator Terry Leyden: Like Senator Quinn I wish to raise the current conflict in Gaza. I note that the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Gilmore, is concerned about the issue. The situation is deeply serious. We flagged the fact that it was a powder keg ready to explode. There has been continuous conflict between Hamas and Israel in Gaza. One hundred people have died in the bombardment of Gaza, including women and children. Three were killed in Israel. The Dalou family were wiped out by F16 jets on Sunday evening. Jamal Dalou’s wife, daughter, sons, brothers, nieces and nephews were all killed. Mr. Dalou survived but 14 were killed in one hit. Some 814 people have been wounded, including 225 children. It is time the European Union took a more active role in the peace process in the region. The United Nations Secretary General, Ban Ki-moon, is there and the American Secretary of State, Hillary Clinton, is *en route* but I have no word of Baroness Catherine Ashton’s role on behalf of the European Union. The Minister should ensure that she takes action. The European Union, Ireland included, is a major contributor to humanitarian aid in the Gaza region. The European Union is lax in its reaction in this regard.

20 November 2012

The previous invasion of Gaza cost more than 1,000 lives, and if there is another invasion more lives will be lost. We may be a voice crying in the wilderness for a ceasefire, but there must be a peace settlement between Israel and Palestine, a two-state solution. Unless that happens, conflict will be a constant every few years, particularly in advance of the Israeli elections. We must bear in mind that most of the military hardware supplied to Israel comes through the United States of America and other Western countries.

Senator Mary Moran: Senator Darragh O'Brien seems to have a problem with women today in the House. I inform him that women are well able to speak for themselves.

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

Senator Mary Moran: Yes.

Senator Darragh O'Brien: I cannot accept that remark.

Senator David Norris: It is an extraordinary and regrettable comment.

Senator Darragh O'Brien: Anyone who knows me will accept that the implication that I have ever, in any way, shape or form-----

Senator Mary Moran: Excuse me-----

Senator Darragh O'Brien: Senator Moran should withdraw that remark.

Senator Ivana Bacik: So a women is not entitled to a career?

Senator Mary Moran: I take exception to the way the Senator referred to this matter.

Senator Darragh O'Brien: I never even mentioned the individual.

An Cathaoirleach: Senator O'Brien, will you please resume your seat?

Senator Darragh O'Brien: What Senator Moran is trying to do now-----

An Cathaoirleach: Senator O'Brien, please.

Senator Darragh O'Brien: The Senator is trying to sully my character.

An Cathaoirleach: Senator O'Brien is out of order.

Senator Darragh O'Brien: A Chathaoirligh, I ask for some protection on this. The Senator is sullyng my character.

An Cathaoirleach: Senator O'Brien is completely out of order.

Senator Darragh O'Brien: Senator Moran is out of order.

An Cathaoirleach: The record of the House will speak for itself. Does Senator Moran have a question for the Leader?

Senator Mary Moran: I have. I wish to point out, if I can speak without being interrupted-----

Senator Terry Leyden: It is grossly unfair.

Senator Mary Moran: Women are well able to-----

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

Senator Mary Moran: Yes, I do. Women are well able to earn an independent living and are well able to rise in high positions in society on their own merit.

Senator Darragh O'Brien: Yes.

Senator Mary Moran: I take exception to people who are-----

Senator Darragh O'Brien: The question was about whether a job was publicly advertised.

Senator Mary Moran: I take exception to being interrupted.

An Cathaoirleach: Senator Moran without interruption.

Senator Mary Moran: I welcome the announcement by the British Prime Minister, David Cameron, that next year's G8 summit will be held at Lough Erne in County Fermanagh. That is a great achievement. It will be great for the country as a whole, as he pointed out this morning. I am delighted to have heard him say that he will promote the South of Ireland as well as the North. I welcome that news.

Senator David Norris: I am glad my colleagues have raised the situation in the Middle East, which is very troubling indeed. The behaviour of the Israeli government in recent years indicates a kind of malign triumph for Christendom. After 20 centuries of persecution of the Jews, we have managed to drag them down to our own barbaric level. I find it absolutely disgusting. Yesterday one entire family was wiped out. Eleven people were killed, nine of them representing four generations of one family. The Israeli spokesperson described this as a technical error. That has sinister resonances of previous regimes which used this kind of dehumanised language about people. It should not come as any surprise, however. This happened before in Operation Cast Lead, as Israel described it, in which rocket fire had virtually stopped before its actions provoked it again. Mr. Jabari was actually in negotiations with the Israeli authorities when they launched their strike against the people of Gaza who were imprisoned in a ghetto from which they could not escape. My colleague Senator Leyden is right in saying the Americans provided the hardware. Should we be surprised? The Americans used drones. I have a question for our friends, the Americans, and our friends in Israel. What has happened to judicial process? What has happened to the right to a trial before a life is snuffed out as a result of a decision taken in a secret and private room? There is a double standard, as there was at 9/11 when it was shocking and tragic that 3,000 people were killed. However, what about the hundreds of thousands who were killed in Asia during the Vietnam war? What about the people in Iraq? Are they not human? Do they not bleed as well? Do they not breathe the same air as us? Are their lives not as valuable? I stand in solidarity with Trócaire and Christian Aid, who are doing what they are supposed to do. They are witnesses to the barbarity; they are speaking about it. We neglect this and we cover it over. We conceal and ignore it at their peril. We should beware. The Israelis have a highly sophisticated disinformation service that clearly reaches into the heart of many states, not just the United States but into this State, this Republic of Ireland as well. All people of good conscience, Jewish, Christian, Muslim, atheist, should stand up for human rights - not Israeli, not Palestinian - but human rights.

I was honoured to be in the company of Mr. Gerald Kaufman, a distinguished British-Jewish

parliamentarian. He took the same view as Trócaire and Christian Aid.

Senator Fidelma Healy Eames: Last week in this House I raised the importance of having an independent inquiry into the case of Savita's death in Galway. On that occasion I called on the Taoiseach and the Minister for Health to provide for an independent inquiry in the interest of truth and justice. I am delighted that an inquiry team has been appointed. However, I am disappointed with its composition. One of the requirements set down by the Minister was that the husband of Savita would be involved in the inquiry. Today we learn he has no faith in the HSE. I ask the Leader to intervene to ask the Minister to reconsider the format of the inquiry team and to appoint new members where necessary. In my view, one representative from UCHG is more than adequate on that team. The inquiry report should be produced as quickly as possible. This is a matter of great public interest.

The House will debate the report of the expert group but in my view we will need to have the results of the Savita case inquiry in advance of that debate. Such is the public concern. We do not know the facts of the case but the very sad and tragic death of this young mother-to-be is being used in some quarters as a motivation to promote abortion. This is not right, in my view. We need the facts of the Savita case as soon as possible so that we can consider it in its true light. We need to have confidence in the inquiry report and that is why we need the membership to be more independent than it is currently.

Senator Trevor Ó Clochartaigh: Ach an oiread le mo chomhghleacaithe, ba mhaith liom cás na bPalaistíneach a tharraingt anuas anseo. The situation in Palestine is absolutely abhorrent. Some of the reports would literally frighten the life out of anyone. There is talk of Israeli soldiers doing leaflet drops telling people that if they move outside their houses they will be shot. We have heard stories of entire families being wiped out, of four year-old twin boys being killed and their parents dying in hospital; of more than 105 Palestinians killed in six days. There are also media reports of Israeli Ministers calling for Israel to use bombs to re-format Gaza, to wipe it clean like a computer hard drive. Another Minister advised that Israel should bomb Gaza so hard that the population would flee into Egypt and that Israel should cut off water and electricity supplies to Gaza. I ask that the Minister for Foreign Affairs and Trade come to the House to have a debate on the situation in Gaza.

3 o'clock

What we are seeing now is a population of people that are like fish in a barrel to a mega-power that is being backed up by other huge states. What is going on there is atrocious. In recent months and years we have seen the blockade of Gaza and an increase in the number of settlements. We should be calling for an end to the blockade and a ban on settlement goods.

Senator David Norris: Hear, hear.

Senator Trevor Ó Clochartaigh: We should have the Minister in the House to discuss what is going on in the region.

I call on my colleagues who mentioned the Savita Halappanavar case in Galway and the obvious debate on the X case to talk to their colleagues in the Dáil and ask them to support the Sinn Féin motion before the Dáil this evening.

Senator John Gilroy: The Senator should ask his own party-----

Senator Fidelma Healy Eames: He should ask his own party-----

An Cathaoirleach: Senator Ó Clochartaigh without interruption.

Senator Trevor Ó Clochartaigh: That is extremely important. I agree with most of what Senator Bacik said about the need to introduce legislation as quickly as possible and to ensure that whatever is brought in is legally robust. Seven Governments in the past 20 years did not legislate or act on this issue and it is about time this Government acted on it. In all fairness I ask it to support the motion being put forward by my colleagues in the Dáil.

Senator Ivana Bacik: The Government will act this time.

Senator Jimmy Harte: First, I join in the congratulations to Fermanagh on securing the G8 summit next year. It is an opportunity for the north west, and especially Donegal, to benefit from the massive exposure Donegal will receive. I ask the Minister for Tourism, Culture and Sport to put a plan together with the tourism bodies to bring the leaders and President Obama, who has Irish roots, across the Border, which is only ten miles away, to view the scenery in Donegal and perhaps get them to lift the Sam Maguire Cup. It is a massive boost for tourism in the north west and in Fermanagh and I congratulate the British Prime Minister, David Cameron, on his move.

Second, regarding Senator Ó Clochartaigh's assertions about his party, the former member of the IRA who holds high office in Northern Ireland is quoted yesterday as saying that his party has been anti-abortion-----

Senator Trevor Ó Clochartaigh: Do you have evidence Jimmy? You should bring forward the evidence if you have it.

Senator Jimmy Harte: I will quote from the newspaper, the *Belfast Telegraph*.

Senator Trevor Ó Clochartaigh: You should be careful what you quote from the newspapers.

An Cathaoirleach: Senators should speak through the Chair.

Senator Trevor Ó Clochartaigh: You did that before as well with-----

(Interruptions).

An Cathaoirleach: Senator Harte, through the Chair.

Senator Jimmy Harte: Do you want me to read it out? I will read it out. Mr. McGuinness stated-----

An Cathaoirleach: Senator Harte, do you have a question for the Leader?

Senator Jimmy Harte: Yes. The question is around the corner, so to speak. Mr. McGuinness stated:

We've had a very consistent position down through the years. Sinn Féin is not in favour of abortion ...

Senator Trevor Ó Clochartaigh: Absolutely.

Senator Jimmy Harte: But they are in favour of murder.

An Cathaoirleach: Senator Harte, have you a question for the Leader?

Senator Jimmy Harte: Can you clarify that?

Senator Trevor Ó Clochartaigh: Absolutely. If the Senator listens to the debate he will-

An Cathaoirleach: Senator Harte, have you a question for the Leader?

Senator Jimmy Harte: The question was that the Minister-----

An Cathaoirleach: I call Senator Barrett.

Senator Sean D. Barrett: I ask the Leader to delay consideration of No. 1 with which I have serious problems. Paragraphs 49 to 52, inclusive, of the report deal with whether the majority one needs to move a private Bill through the House is 50% or 75% of the body corporate. Serious legal issues arise that must be resolved based on an earlier case. That item should not proceed today and I ask the Leader to put it on hold.

An Cathaoirleach: Is the Senator proposing an amendment to the Order of Business?

Senator Sean D. Barrett: I am asking that the matter be referred to the Leader. I might move an amendment later.

An Cathaoirleach: On a point of clarification, Senator, you will not be able to move an amendment later. Are you proposing an amendment now?

Senator Sean D. Barrett: I move that the item not be taken pending the reply of the Leader.

An Cathaoirleach: You are moving an amendment to the Order of Business that No. 1 on the Order of Business be deleted.

Senator Sean D. Barrett: Yes.

Senator Terry Leyden: That is a good suggestion.

Senator Michael Mullins: I join with colleagues in condemning the appalling loss of life in the past week in Gaza and in Israel. I echo the call to invite the Tánaiste to the House for a discussion on that worsening crisis, particularly in light of our history of conflict and the contribution Ireland could make to resolve it. There is no way to dress this up. We have witnessed acts of unacceptable terrorism by both sides in the past few days. I call on both sides to co-operate with those who trying to bring an end to hostilities, in particular, the UN Secretary General, Mr. Ban Ki-moon. I also call on the international community to throw its weight behind the efforts to bring about a long-term solution. The actions of the Israelis in striking against the Palestinians in the past week are totally unacceptable, but Hamas is exploiting vulnerable people in Gaza to achieve its own aims and objectives, similar to what we witnessed in this country over a period of 30 years. This is a major international crisis in which some of the most powerful countries are involved in some way or other and on which I urge the Leader to organise a debate

as soon as possible with the Tánaiste and Minister for Foreign Affairs and Trade.

Will the Leader also organise in the coming months a debate on broadcasting standards and, in particular, the quality of home-made programmes? The programme referred to, “Love/Hate”, is shockingly violent. I do not know if the public good is served by the airing of such a violent and horrible programme. There are other programmes on which we might like to comment at a future date.

Senator Mark Daly: I join others in calling for a debate on the conflict in Gaza and the escalating death toll. It is no coincidence that this is happening at the same time as the Israeli elections. It seems to be part of the election cycle in Israel that when a general election is called, the Prime Minister decides to attack Gaza and the other side responds. There are no clean hands in these situations. I ask the Leader to organise a debate on the issue as soon as possible.

Senator Darragh O’Brien raised issues about openness and transparency in government. As I pointed out previously, only 2% of the legislation enacted in Ireland in a given year is debated by the Dáil and the Seanad, with 98% being implemented outside the Houses, much of it by officials, public servants and members of the cabinet, and very few at that. When we are appointing senior policymakers and advisers, as was the case last week with the Minister, Deputy Gilmore, openness and transparency are paramount. As my colleague said, if there was high moral ground to be found when he was in opposition, the Deputy found it at every opportunity. Deputy Gilmore now seems to think the appointment of persons to positions in other Departments without scrutiny-----

Senator Ivana Bacik: On a point of order, there is no purpose in raising points of order if Members continue to breach the rules of the House in referring to persons who are not present.

Senator Darragh O’Brien: That is not a point of order.

Senator Ivana Bacik: It is. It is about the rules of the House.

Senator David Norris: It is about the naming of a person.

An Cathaoirleach: It is not a point of order.

Senator Ivana Bacik: As Senator David Norris pointed out, I have also raised this issue previously.

Senator David Norris: The point of order concerns the naming of a person in the House.

Senator Darragh O’Brien: Senator Mark Daly did not name anyone.

Senator David Norris: He mentioned the name Gilmore. I heard him; he is sitting right in front of me.

Senator Ivana Bacik: Just like Senator Darragh O’Brien, Senator Mark Daly identified him.

An Cathaoirleach: I understand the Tánaiste did not appoint anybody.

Senator Darragh O’Brien: Senator Ivana Bacik is sensitive about the issue. I wonder why.

Senator Terry Leyden: Appoint and disappoint - that is the Labour Party policy.

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

Senator David Norris: It is an important issue, but it can be dealt with without the naming the people involved.

Senator Ivana Bacik: Yes, without personalising it.

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

Senator Mark Daly: I hope Senator Ivana Bacik will support the request for a debate on the issues of openness and transparency in the appointment of advisers who have so much power and influence, given that 98% of legislation is not debated by the Dáil and the Seanad. When the Minister for Foreign Affairs and Trade appoints a fourth adviser on a huge salary and is pushing for others without publicly advertising-----

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

Senator Mark Daly: Why were the jobs not advertised in the public service, as they should have been, given that 18 months ago the Government promised to ensure openness and transparency?

I second Senator Sean D. Barrett's amendment to the Order of Business.

Senator Marie Moloney: I wish to raise the issue of an unusual situation that has developed in the family income supplement section in the Department of Social Protection. People who applied for family income supplement last June or July are in a backlog queuing system waiting for their applications to be processed. However, if one applies today or within the next two weeks, one will be dealt with immediately and the family income supplement will be processed straight away. This just does not make sense. I have been in touch with the Department which has informed me it has two different sections, one to deal with the backlog and one to deal with new applications. It does not make sense that those waiting for months will have to wait until the new year to have their application processed. I know the lead-up to the budget is a busy time but I hope she could find time to attend the House to have this matter rectified. Those who are waiting the longest for their applications should be dealt with first. Will the Leader put this to the Minister for Social Protection as soon as possible?

Senator John Crown: I speak with a very heavy heart about this and I am sorry if I am taking the risk of hurting the feelings of any of my colleagues. As the only hospital specialist medical consultant and the only medical doctor who is not a member of the dominant party of government in the Oireachtas, I feel I must give the independent opinion I was mandated to give when elected on a health issue which has arisen and about which I feel very strongly. Will the Leader ask the Minister for Health to attend the House today to explain and to defend the composition of the investigative panel into the Galway tragedy? I believe it is absurd.

Senator David Norris: Hear, hear.

Senator John Crown: With no disrespect to the individuals involved, Ireland is small and so too is our medical community. With approximately 2,000 consultants, it is well known that it is notoriously difficult whenever any medical-legal issue arises in Ireland to get an Irish doctor to give any testimony about any other Irish doctor because there is a better than batting average

chance they have been in medical school together or know each other from a professional society. With no disrespect to Galway, there are 122 consultants in the medical community there, three of whom are on the investigative panel. It is simply not credible that these people do not have an extensive network of professional, and probably social, connections with some of the people whose actions they may be directly or indirectly investigating and adjudicating on. It is wrong and inappropriate that it has been set up in this way.

The argument that has been advanced is that it is necessary to have them on the panel to explain the procedures, standards and protocols which are in place at the hospital in question. Again, this is simply not credible. If I wanted to get all parliamentary and glib here, I would draw certain parallels with other situations of investigation where people should not be on an investigative panel. Out of respect to my colleagues, however, I will not do it.

It is singularly inappropriate that these three persons are on this panel. All of the evidence and information concerning the standards in Galway could be and should be sought from testimonial witnesses, not by members of the investigative panel.

An Cathaoirleach: Is the Senator proposing an amendment to the Order of Business?

Senator John Crown: In a situation like this where there may be an influence on legislation, there is a significant influence on the poor family who so sadly lost their daughter and wife. They have already expressed their displeasure and lack of satisfaction with the composition of the panel. Before this goes any further, we need to let it be known that this is just not satisfactory. I will be pressing for the Minister to come in here today-----

An Cathaoirleach: Is that an amendment to the Order of Business?

Senator John Crown: Yes, this is a proposal for an amendment to the Order of Business.

Senator Michael Comiskey: I join with other Senators in welcoming this morning's good news about the G8 summit coming to Enniskillen in the north west of Ireland. Two weeks ago we congratulated the US President, Mr. Obama, on his election. It will be great to see him flying into Enniskillen along with other leaders from across the world. I hope my colleague, Senator Harte, does not take all the visitors to Donegal on this occasion. As it is the year of The Gathering, it is important we see visitors coming to Sligo, Leitrim and Cavan, as well as Donegal. We welcome this news and look forward to meeting all of the people that will be coming to Enniskillen.

Senator Diarmuid Wilson: I join Senator Harte and Senator Moran in welcoming the announcement by the British Prime Minister that the G8 summit will take place in the Lough Erne resort outside Enniskillen next year. This is a welcome development and we would welcome the world media attention to this beautiful part of Ireland, namely, the lakeland district of Cavan, Fermanagh and Leitrim. I have no difficulty stretching it as far as Donegal, a county I love to go to on holidays. I call on the Leader to ask the Minister for Transport, Tourism and Sport to promote this beautiful part of our country in the build up to the G8 summit. It is never highlighted by Tourism Ireland or any public body. It deserves this attention and this is an opportunity for the area to be promoted between now and when the summit takes place next year. Will the Leader arrange for a general discussion and debate on tourism and the potential it has for the economy?

I second Senator Feargal Quinn's amendment to the Order of Business.

Senator Colm Burke: I agree with the remarks of Senator Crown on the composition of the inquiry set up to investigate the Galway tragedy. All the people appointed are credible but we now have a problem that must be dealt with and it cannot be allowed to run on and on. It is important for everyone, including the family concerned, all the medical staff in Galway, the consultants and nursing staff, that there is an inquiry which is seen to be fair and accurate and which brings forward a report outlining how this matter should have been managed and how similar situations should be managed in future. It is something we cannot allow to go on *ad infinitum*. The composition should be revisited to ensure it is seen to be fair and to ensure it has the ability to deliver an accurate and fair report on this incident. I agree with Senator Crown. Given that there are three people from the hospital involved concerns have been raised in the public domain and these must be tackled at an early stage.

Senator David Norris: What about the HSE representatives?

Senator Colm Burke: In fairness to everyone involved there should be some compromise by everyone. There is no way something can be delivered that will satisfy all parties. Anyway, this must be examined at the earliest possible date and I call on the Leader to convey this to the Minister for Health. I realise it is not possible for the Minister to come to the House today but it should be dealt with at the earliest possible date.

Senator Marc MacSharry: I second the amendment to the Order of Business by Senator John Crown. I agree wholeheartedly with him. If we are to have an investigation into these matters it is vital that it should be credible, as Senator Crown has rightly pointed out. That is not to impugn the expertise or contribution of these fine medical professionals. There is no doubt that they could probably play a vital role as expert witnesses in any investigation, but it is wholly inappropriate to have an investigative body that includes those who are effectively members of the same team. It is absolutely not credible and it is important in the interests of everyone concerned that it would include people who are absolutely not connected in any way to this institution.

I call for a debate on agriculture to be arranged in the not too distant future. I realise there have been debates in the past about Common Agricultural Policy reform and so on but it is vital to have another. Despite the best intentions of the Minister for Agriculture, Food and the Marine, Deputy Coveney, to represent all farming interests, some smaller farmers, especially those along the western seaboard and in the north west of the country, are not being adequately catered for. There are proposals to change how commonage is catered for. This is completely discriminatory in terms of how the Government envisages taking it forward. There are other issues of concern in terms of a prioritising of those with larger holdings, who have scale and fertility in the context of what they can produce, rather than those with smaller holdings throughout the country. Given the world food crisis and the role that agriculture can play in our economic recovery, we must do our best to keep all of those involved in agriculture on the land to allow them to make the best contribution they can.

Senator John Gilroy: I support my colleagues, Senators Crown, MacSharry and Colm Burke, in asking the Leader to invite the Minister here, at his earliest convenience, to discuss the death of Savita Halappanavar in Galway. No issue has generated as much public debate as this in recent years and public confidence must be maintained. While I understand that it is probably not possible for the Minister to appear in the Chamber today, I hope he does so as soon as possible.

Senators Mullins and Conway referred to the television programme “Love/Hate” currently being aired on RTE but I take a contrarian view to my colleagues on the matter. If the events depicted in that programme give an accurate picture of the awfulness of the world of gangland, subversive, IRA and drug-related crime, then the programme makers are doing the State some service. The programme depicts the sheer and utter mindless violence and thuggery that exists in that underbelly, that largely unseen part of our society. I congratulate the makers of the programme and RTE for showing it and I ask the Leader to facilitate a debate, already called for, on drama on RTE.

Senator Rónán Mullen: The points made by Senator Crown and others today must be taken very seriously. The principle that justice must not just be done, but be seen to be done, applies to any kind of inquiry in the public interest. Today I wonder whether the reset button will have to be pressed on this inquiry. It is not just about the Galway membership of the inquiry team but from the chairperson down, anyone who has been known, or seen, to be involved in any advocacy on any side of this issue, given how fite fuaithe it has become with the issue of abortion, should not be involved. Such involvement would lessen my confidence in the impartiality of the inquiry. There may be issues to be examined across the board and not just regarding the Galway membership of the inquiry team. I have concerns at this point.

It is tragic because it is quite clear that we must await the outcome of the inquiry into what happened to the late Savita Halappanavar before we can have any credible or coherent debate about the issue of abortion. Clearly there has been a hijacking of this issue, very sadly, by people who have a very radical agenda. That is why I am particularly disappointed that Sinn Féin has chosen to make the running by seeking legislation for the X case at this point when it is quite clear from the utterances of spokespeople from that party that they have not considered, or do not seem to know, the precise implications of that case. It goes far beyond anything that could be described as necessary medical interventions and that is simply inexcusable. Given the information that we heard over the weekend, namely, that elements in Sinn Féin and perhaps also in the Labour Party, are part of a pro-choice network who seem to have had advance notice of this case, who seem to have been planning a campaign of some kind ---

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

Senator Rónán Mullen: There are some really troubling issues here and for that reason ---

Senator David Cullinane: I see partyism is alive and well.

An Cathaoirleach: Does the Senator have a question?

Senator Rónán Mullen: We must proceed with great calm and caution. I ask the Leader to ensure that we hear from the Minister because we need to get the right inquiry into what happened. We must await the findings of that inquiry before we can resume a calm and coherent debate about where we go from here.

Senator David Cullinane: I support the call made by a number of Senators that whatever inquiry is held into the tragic death of Savita Halappanavar, it must be truly independent and the family must be central to it. Senator Ó Clochartaigh made the point that it should not involve people from the hospital in Galway if the inquiry is to be truly independent, although they will obviously be part of what happens. As we have been waiting 20 years for legislation in this area, it is not fair to ask us to wait for the outcome of the inquiry into this tragic case. A number of referendums have already been held, as well as a Supreme Court judgment in 1992

and a European Court of Human Rights judgment. The State clearly needs to legislate so that we can provide certainty to medical professionals. It was disingenuous of Senator Mullen to suggest that Sinn Féin does not understand the implications of the X case. I advise the Senator that views differ on this issue within every political party. Some in Sinn Féin are pro-choice and others are pro-life, and both groups are entitled to their positions. We have a long-standing party policy that aims to ensure -----

Senator John Gilroy: What about his party's manifesto?

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

Senator David Cullinane: You do not represent the Labour Party position on this. I will not take any guff from you.

An Cathaoirleach: Senator Cullinane -----

Senator David Cullinane: You do not represent your own party's position.

An Cathaoirleach: ----- have you a question for the Leader?

Senator David Cullinane: Will the Leader encourage his party's Members to support the motion that has been tabled and will the leader of the Labour Party do the same among Members from her party? It is a clear and modest motion.

Senator John Gilroy: What about the Senator's own Members?

Senator David Cullinane: It simply calls on the Government to legislate for the X case.

An Cathaoirleach: Has the Senator a question on the Order of Business?

Senator David Cullinane: The women of Ireland should not have to wait any longer.

Senator Ivana Bacik: My party is pressing for legislation.

Senator Paschal Mooney: I add my voice to other speakers regarding the ongoing loss of life in the Gaza Strip as a result of the exchange of rockets across the border between Gaza and Israel. While nobody should condone the violence and loss of innocent lives in Israel and the Gaza Strip, I hope the ongoing discussions, with Egypt acting as an honest broker, will reach a satisfactory conclusion so that the conflict can end. According to news reports a Hamas spokesman indicated that 80% of an agreement had been reached. It is always the remaining 20% that proves problematic but the eyes of the world are watching for what Israel is going to do next. I hope common sense will prevail because, whatever sympathy Israel may have engendered as a result of the thousands of rockets fired indiscriminately at it over the past several days, some of which have reached the outskirts of Tel Aviv and Jerusalem, there is at least some semblance of discipline in the context of what the Israelis say they are trying to do.

One cannot condone yesterday's incident in which a police station was supposed to be targeted but which instead resulted in horrendous loss of life with an entire family being wiped out. It is important that the House should give its attention to these matters, particularly as the Tánaiste and Minister for Foreign Affairs and Trade will be taking over the EU Presidency in January. There is no question that the complexities of the Middle East problem mean that we will be revisiting this topic. I understand the Tánaiste will address the Seanad prior to Christmas and I hope he will be able to set out the Government's position on the events as they unfold.

This House has a proud record of addressing Middle East issues, irrespective of which side of the argument one takes, and I hope that tradition will continue. I express my deepest sympathy on the loss of life on both sides of this terrible conflict.

Senator Maurice Cummins: Senator Darragh O'Brien raised the issue of advertising vacancies in the public service and referred to a specific case.

Senator Darragh O'Brien: It was an example.

Senator Maurice Cummins: I remind the Senator that as part of the major reform of further education and the training sector, 33 vocational education committees are being merged into 16 educational training boards. As part of this reform it has been necessary to undertake a redeployment scheme for permanent CEOs of each of the VECs. Obviously, with 16 new ETBs, there are only 16 CEO positions. However, there are 19 permanent CEOs in the existing VECs. Under a redeployment scheme agreed with SIPTU, the filling of the new CEO positions was decided on the basis of seniority. This left three CEOs to be redeployed, including the current CEO of Dún Laoghaire VEC. She is to be appointed as policy specialist on further education and training at the Department of Education and Skills. The person in question was treated no differently than any of the other CEOs who were redeployed under the agreement. That clarifies the position. All of the CEOs involved will report to assistant secretaries in the Department of Education and Skills, not the Minister directly. There was no political involvement in the redeployment of the person mentioned or the other two CEOs covered by the redeployment scheme. I hope this adequately answers the Senator's question.

Senator Darragh O'Brien: It does not answer the question about the advertising of posts.

Senator Maurice Cummins: Senator Ivana Bacik raised the issue of the report of the expert group, which will be placed before the Cabinet next week. I gave an undertaking to the House that we would discuss it when published. I hope it will be published immediately after the Cabinet receive it.

I propose to accept Senator Feargal Quinn's amendment to the Order of Business, that the Employment Permits (Amendment) Bill 2012 be taken before we deal with No. 1, motion re the revision of Standing Orders. This will allow the Senator's Bill to be published.

The Senator also called, as did a number of other Members, for a debate on the situation in Gaza, an issue raised by many Members last week on the Order of Business. We all share the widespread concern about the ongoing exchanges of fire into and from Gaza. In a statement issued on 15 November the Tánaiste made the Government's position clear. He called on both sides to avoid an escalation of hostilities and refrain from further attacks. Yesterday, Monday, 19 November, he discussed the situation in Gaza with his EU partners at the GAERC Council meeting in Brussels. The Council made a similar strong call for a de-escalation and restraint on all sides. Much attention has focused on the casualties caused by Israeli air strikes and the use of heavy weapons in the crowded and built up area of Gaza. It is essential that the exchanges of fire stop on both sides. We simply cannot ask one side to stop. Intensive efforts are under way on the part of Egypt and others to communicate with both sides to bring about a ceasefire to restore a sense of security for the ordinary people of Gaza and Israel. The UN Secretary General, Mr. Ban Ki-moon, is in the region where he is due to visit Israel and the Palestinian Territories today. As I mentioned, EU Foreign Ministers discussed the issue at the Foreign Affairs Council yesterday. Ireland has already stated it is disposed to supporting a balanced and

reasonable resolution of the issue which this House has been to the forefront in highlighting on many occasions. I will endeavour to arrange for the Tánaiste or the Minister of State to come to the House to discuss it as soon as possible, I hope this week if that can be arranged.

Senator Feargal Quinn also raised the issue of penalties for smuggling not being adequate and the need for more resources for the Garda and the Customs service. I will ask the Minister for Justice and Equality to come to the House to address these matters. I agree with the Senator that the penalties are insufficient.

Senator Martin Conway and several others mentioned the television drama programme “Love/Hate” which is broadcast on Sunday nights and called for a debate on media standards in drama programmes. The programme referred to is certainly shockingly violent, but it is clear when one reads newspaper articles written by people who were in the police force for many years that it is indicative, unfortunately, of what is going on in many areas of this city. I will see what I can do to get somebody in to discuss this question. While it is shockingly violent, as I have said, I think it is an excellent production by Irish people, who are to be commended. I agree with those who have pointed out that it is not something children should be watching, as it is very difficult viewing.

Senators Moran, Harte and Comiskey referred to the exciting news about the G8 summit announced by the British Prime Minister, Mr. Cameron. We all hope it will go off successfully and will be a boost for tourism in the north east and the whole island of Ireland.

Senators Healy Eames and Crown, as well as other speakers, referred to the need for an independent inquiry rather than a HSE inquiry into the Halappanavar case. I share the concerns expressed by Senator Crown about the composition of the panel in question. I cannot get the Minister in here today, but I can certainly agree to ask him to come to the House to address the matter as soon as possible. I can inform the House that the Minister’s office has confirmed that the three consultants who were previously named will not now be part of the inquiry. I think that addresses some of the points made by Senator Crown. Three new appointments of people who have nothing to do with University Hospital Galway will now be made to support the chairperson in his work.

Senator Trevor Ó Clochartaigh: Who said the Seanad has no power?

Senator Maurice Cummins: The investigation will be completely independent. The Government hopes it will receive the support of everyone who has expressed concern about this tragic case. I think that addresses the matter at this point.

Senators: Hear, hear.

Senator Maurice Cummins: Senator Barrett asked about No. 1 on the Order of Business. Revised Standing Orders have been unanimously agreed by a joint committee of both Houses of Parliament. As they have remained unaltered since 1939, they are completely out of date. We received an opinion on paragraphs 49 and 50, which were mentioned by Senator Barrett, from senior counsel. The committee accepted the advice that was received and consequently amended the 1939 provision that is reflected in Standing Order 17. It provides for a simple majority of consent by a chartered corporation. This provision was also accepted unanimously by the committee. I will take into consideration what Senator Barrett has mentioned. He has given me a note with a query or two. I presume we can answer them for him. I am prepared to accept his amendment to the Order of Business to enable us to deal with this matter next week,

when the questions asked by Senator Barrett have been answered.

An Cathaoirleach: Senator Barrett's amendment was not seconded. Is the Leader proposing an amendment to the Order of Business?

Senator Maurice Cummins: I will propose the amendment to the Order of Business myself, then, to ensure Senator Barrett gets answers to the questions he has posed.

Senator Darragh O'Brien: Senator Mark Daly seconded it.

An Cathaoirleach: Did he?

Senator Maurice Cummins: We will include the matter on the agenda again as soon as possible after that.

Senator Martin Conway: Senator Barrett's amendment was seconded by Senator Mark Daly.

Senator Maurice Cummins: Senator Moloney raised the issue of applicants for family income supplement jumping the queue, which is a ludicrous situation that will have to be addressed. I will bring the matter to the attention of the Minister as, I am sure, will Senator Moloney.

Senator Wilson called for a debate on tourism. The Minister for Transport, Tourism and Sport will be in the House, if not before Christmas, then early in the new year at which time Senator Wilson can put his questions to him.

Senator MacSharry called for a debate on agriculture. The Minister for Agriculture, Food and the Marine was in the House a number of weeks ago. However, if the Senator has some specific questions I will arrange to have them answered by the Minister, who has been very amenable in terms of his attendance in this House on many occasions. I am sure it will be possible to get answers from the Minister to any specific questions raised by Senator MacSharry.

Senator Mullen referred to the Sinn Féin motion before the Dáil. What Sinn Féin does is a matter for that party. It is a matter for the other House rather than this House to deal with that motion.

I have already addressed the issue of membership of the inquiry team.

An Cathaoirleach: Three amendments have been tabled to the Order of Business. Senator Quinn has moved an amendment to the Order of Business, "That No. 14 be taken before No. 1." The Leader has indicated that he is prepared to accept the amendment. Is the amendment agreed? Agreed.

Senator Barrett has also moved amendment to the Order of Business, "That No. 1 be deleted from the Order of Business." The Leader has also indicated that he is prepared to accept this amendment. Is the amendment agreed? Agreed.

Senator Crown has also moved an amendment to the Order of Business, "That a debate on the composition of the investigation board appointed to inquire into the death of Savita Halappanavar in the University College Hospital, Galway be taken today." Is the amendment being pressed?

20 November 2012

Senator John Crown: I am prepared to withdraw that amendment in light of the information provided. I ask the Leader to convey our appreciation to the Minister for making the correct decision and our concern that great thought be put into the composition of the board. I would urge that in the interests of independence as many non-Irish based specialists as possible be appointed to the board.

Order of Business, as amended, agreed to.

Employment Permits (Amendment) Bill 2012: First Stage

Senator Feargal Quinn: I move:

That leave be granted to introduce a Bill entitled an Act to protect national workers from exploitation by providing a due diligence defence for such workers and also to preclude employers from avoiding liability through reliance upon the illegality of a contract of employment and for that purpose to amend the Employment Permits Act 2003 and to provide for related matters.

Question put and agreed to.

An Cathaoirleach: When is it proposed to take Second Stage?

Senator Feargal Quinn: On Wednesday, 28 November 2012.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Wednesday, 28 November 2012.

Action Plan for Jobs: Statements

An Leas-Chathaoirleach: I welcome the Minister for Jobs, Enterprise and Innovation and ask him to make his opening contribution.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): Perhaps I will just make a few brief opening comments in order that Senators will have more time to offer their own observations.

The first point I wish to make relates to why we brought forward the action plan for jobs. I need not inform Senators that the background to its introduction lay in the sheer economic mayhem that impacted upon employment in recent years. In the space of three years some 16% of jobs in this country were simply wiped out. The tragedy is that the vast majority of these related to young people who are under the age of 30. While we know that we must consolidate the position with regard to the banks and our public finances, the main purpose of the work we are doing is to fix people's lives. In that context, the most important consideration is getting them back to work. It was for this reason that the Taoiseach decided - I am a key player in this regard - to put in place an action plan for jobs which seeks to span the entire Government. In

other words, it involves bringing the expertise of all Government Departments to bear on the challenge relating to employment. This is not just an issue for one or two Departments - every Department has an role to play.

The second purpose of the action plan is to bring a sense of implementation and action to the orientation of Government in respect of this matter. Learned reports have been compiled over many years in respect of the need to reform the health service and our system of public administration. However, a large number of such reports are usually left on the shelf. When one reflects on them years after their publication, one can see that very little has been done. The opposite is the position with regard to the action plan, the purpose of which has been to ensure that actions which would make it easier to create employment would be taken within 12 months of publication. That is what has driven our work in this regard. Quarterly targets were set down and had to be met. By and large, this has happened. For example, the completion rate for the first and second quarters was 95%. The rate for the third quarter was somewhat lower. Anything that was missed in the first two quarters, however, has been delivered in the third and fourth quarters.

Setting deadlines is a new concept within the public service. I cannot recall many policy initiatives which imposed deadlines for implementation on the system. The laying down of targets and deadlines has had an impact. In practical terms, we have brought forward things which many people had sought but which had been long delayed. I refer, for example, to the microfinance initiative and the loan guarantee scheme and the establishment of the first-time exporters division. We have, through ConnectIreland, reached out to the diaspora and others who are friends of this country in order to supplement the admirable work done by IDA Ireland. We are beginning to see the impact of this. Our problems have not been solved but last year was the best for international investment in a decade. IDA Ireland delivered its best figures for employment in some time, with a net expansion of almost 6,000 in the number of jobs. The gross figures in this regard were very positive. Enterprise Ireland saw two years of very strong double-digit export growth, as Irish companies have built on improved competitiveness and won back markets. We are seeing a transformation occurring in the economy. We are seeing the new sectors that will build our long-term economic future emerge. We are seeing a hugely strong performance in export-oriented sectors, not just the ones under my remit but also tourism, to be fair, is doing well, having been very weak. In net terms, in the three years before we were in government those export-oriented sectors lost approximately 70,000 jobs, and they have gained 20,000 jobs in the past 18 months. In terms of those key sectors which are critical to our long-term future, they have turned a dramatic corner. Overall, private sector employment continues to fall but it is pretty much plateauing at this point. The strong growth in the export-oriented sectors is being weighed down by losses in traditional sectors. Construction continues to lose employment, as does retail, although not as rapidly as was the case. Domestic banking continues to go through a difficult correction.

There are grounds for stating that the strategy is working. We have a balance of payments surplus, which means that as a country we are paying down our debt. However, there is a huge distance to go. Most Members who are in business will be aware that fixing the banks is not a question of just recapitalising them. They became re-oriented away from the challenge of a small open economy, businesses and exporting and they got into the business of property and selling on commission. There is a big challenge in re-orienting them away from that world to the new economy we must build. The measures we have introduced will be useful but we need the banks to correct themselves also.

The Credit Review Office is doing great work. I do not know whether Senators are using that office but it is a valuable tool. If they come across people who are having problems with getting loan approval from their bank they should use that office because it has turned over more than 50% of the cases that have been brought to its attention. Currently, up to 60% of the cases that come for adjudication are turned over. Much useful work is done before the cases ever come to adjudication. It is a really useful office that is making an impact. To be fair, it was established by the previous Government. I am not being partisan about the issue.

Senator Mary M. White: That is very good.

Deputy Richard Bruton: It is a useful office and its impact continues to be important because the banking system is not fixed.

What is strong in the action plan for jobs is that we have looked to other sectors. For instance, the health sector set up a health innovation hub to examine how it could bring in innovative companies to get their first sales within the Irish health system which would then be a reference sale for them to export. We have set that up on a pilot basis in Cork. It already has six very strong projects being test-bedded within the Irish health system which gives them a reference sale. I could go through numerous examples of other areas where other Departments, not with any remit directly related to jobs have become partners in trying to create an environment that is more friendly to job creation.

It is clear that a significant amount remains to be done. Action plan 2013 is now in preparation. I would welcome submissions and ideas from Senators. We have had a consultation period which started towards the end of the summer. I met with a lot of groups and we also received many individual submissions. Much of the work from last year will carry on, for example, the audit of licences, which was conducted as part of last year's action plan for jobs. The result of the audit will shortly be available. That material will be important in deciding whether we can simplify regulation, which is a theme that is very much on the lips of those involved in the small business sector.

We can report good progress in what we are doing but it is a work in progress and there is a long way to go, as anyone who views the Irish economy is aware. There are headwinds coming against us with the downgrade of growth prospects in all of our trading partners. That does create difficulties for exporting companies. Equally - I have been on 12 trade missions at this stage - one can sense that our companies are much more competitive and are in a more innovative space. They can win markets in places such as Japan, Canada and China. We are seeking to open up new markets.

I welcome the input and comments of Senators.

Acting Chairman (Senator Terry Brennan): Thank you Minister. Tá tú ar an treo ceart.

Senator Mary M. White: I welcome the Minister for Jobs, Enterprise and Innovation and compliment him on the energy and passion he is putting into his role.

Today, I will address the issue of youth unemployment. On 8 November we were addressed by a Nobel laureate, Professor Christopher Pissarides, who raised some very important points on youth unemployment.

Professor Pissarides expressed concern that one third of young workers in Ireland are un-

employed. He urged us to address the situation urgently to avoid a lost generation which will prompt negative implications for economic growth and employment for many years to come. His point is that job creation is the best help that unemployed persons, young or old, can receive during a recession.

I acknowledge that the Minister is doing his best, but the problem is immense. The CSO figures show that unemployment is still at 14.8% and long-term unemployment has increased to 8.8%. A further point made by Professor Pissarides, with which I wholeheartedly agree, is the need for young people to secure a role in a line of work in which they are interested. I have just come from the Joint Committee on Jobs, Enterprise and Innovation, where I made this point. A person derives pleasure from studying and having a career in a subject in which he or she is interested. I think it is a gift from God to have an opportunity to study what one is good at and to develop one's potential, which is all important. Having a job as a result of it is what it is all about. The best labour markets enable young workers to experiment in different jobs, which helps them discover their true potential and ultimately thrive in that role.

Two recently published articles in the newspapers highlighted the prevalent problems that are directly linked to youth unemployment. The first article reveals that the number of workers, including IT specialists, hired from outside the EU has risen to almost 2,300. This is a further indicator of how important it is to identify specific current and future skills that are relevant to areas of the economy if we are to assemble an appropriate skilled workforce for the future. The number of work permits granted by Google Ireland rose from 49 in 2006 to an alarming 148 last year. Facebook has the same problem. It is fine that we have diversity and people from abroad coming to work in Irish companies but we want to get jobs for our own people. The Nobel laureate stressed in his response that the EU is encouraging people to move to other countries if they cannot get a job in their own country. Our effort should be directed at providing opportunities for people in their own country. We know that many people want to go abroad. Members of my own family want to go abroad and travel. That is natural, but at the same time a true judgment of our own country is that we can provide jobs for people who want to stay here.

In response to criticism regarding PayPal's recruitment strategy, the head of PayPal, Louise Phelan, was quoted in the *Irish Independent* calling for people to "get past" the high number of people from overseas on her staff. I agree with her. We may be attracting the major multinational corporations to Ireland, but they are certainly looking abroad for appropriately skilled personnel to fill their vacancies.

We had a presentation from the Forfás expert group on future skills needs and our attention was drawn to an analysis carried out in 2011 of the job vacancies over the previous 12 months.

4 o'clock

There are approximately 8,500 job vacancies in sectors such as ICT, engineering and utilities, accountancy and finance, production manufacturing and materials. There is something radically wrong in the mismatch when at the same time so many people are unemployed. I refer to an excellent presentation from the presidents of DIT, Dundalk Institute of Technology, Cork Institute of Technology and the HEA which Senator Clune and I attended. They are to be congratulated on their tremendous work in educating young people for the economy. I know the Minister is completely committed to this policy. However, any mismatch of skills should be rectified urgently by a change in policy.

Senator Deirdre Clune: I welcome the Minister to the House. We have discussed the action plan for jobs on previous occasions. The plan has set targets. Quarterly and six-monthly reports have been issued which have been effective in measuring progress. There has been an emphasis in this House on the need to support small businesses. I welcome the changes such as the establishment of the local enterprise offices. These will include a one-stop shop to provide support for existing and new businesses. The expertise provided by local authorities and Enterprise Ireland will be important supports. Small and medium indigenous enterprises are the backbone of the economy. The action plan for jobs was established against the background of a significant loss of employment over the past years. The unemployment rate is currently 14.8%. The retail sector has suffered because people have less money in their pockets.

I note that the Digital Hub Development Agency focused on the online opportunities for Irish retailers. Consumers spend in the region of €4 billion on online purchases but 75% of that money goes out of the country. The retail sector is changing because people's shopping habits have changed. The online marketplace needs to be taken seriously by Irish retailers. The retail sector survives by changing to keep up with changing markets and consumer habits and needs. For example, a traditional shoe shop in Cork closed down because it was not offering the product or type of service that consumers wanted. By contrast, 20 yards down the street, a bright, modern shop is offering that shoes can be sent in the post within a week. Shoes can be ordered online and the shop will deliver them. That is the kind of service which customers expect. Retail can do better and the online sector can be exploited by Irish businesses. The Digital Hub Development Agency report produced in the summer estimated that Irish people will spend €20 billion online each year, and most of that will be on sites outside the country. The message for retailers from that is that if they can develop some sort of Internet presence there is a massive opportunity for them to capitalise on the online shopping trend that will undoubtedly grow.

The gaming sector is another area identified in the action plan and one on which we had a report produced last week on the way it is expanding. There are now 83 companies in the gaming sector in Ireland; there were only 21 in 2009. There has been a surge in the creation of indigenous jobs and the development of new businesses in this area, and it is an industry that is worth approximately €2 billion. As the Minister said, it is about changing the emphasis in terms of the type and location of jobs and that is one sector, and the health sector, he mentioned.

As Senator White stated, the job opportunities and skills shortages in the IT area is an issue we have discussed in the enterprise committee of which we are both members. We just had a meeting with the representatives of the Higher Education Authority, the universities and the institutes of technology. We were discussing the ICT action plan and it was encouraging to hear that the conversion programme has expanded. We are in the middle of a course whereby graduates can convert to the ICT area and, based on the success of that programme, an expansion of the courses available was announced last week. We look forward to the results of that programme and all the indications are that those who graduate from that conversion course early next year will find employment. That is a welcome development.

The food and drink sector and the need to focus on the type of skills that are required in that industry have been discussed. A 2009 Forfás report by the expert group on future skills needs identified particular skills shortages and recommended that a joint initiative between the third level sector and industry be established, led by the Department of Agriculture, Food and the Marine. I understand from questions I asked that that has not happened yet but it may be something that will be very useful. The link between the third level sector and the needs of industry arises frequently. They are represented on the expert group on future skills needs but

there appears to be a lack of engagement at the coalface.

An issue that arises frequently in our committee is that employers and industry are not getting the skills they need. That is not taking from the fact that education must be broader than pure skills but when we have an unemployment level of 14.8%, skills that are directly required by industry should be developed and would be very welcome.

In terms of the construction sector there are opportunities in the green energy area in refurbishing homes. There are many ageing properties in the country and there is an untapped potential in that respect. The construction sector is probably down at about 5% now when any economy should have a construction sector of the order of 9% to 10% but there is a potential in that area. That raises the old chestnut about refurbishing and insulating old homes and so on but there is great potential in that area and we should continue to focus on it.

The area of languages should be examined. There are job opportunities in that area but we do not have the necessary skills. I mentioned this morning on radio that the next EU budget will contain a substantial package for the Erasmus programme. We need to leverage that money to ensure our students acquire the necessary skills.

The action plan on jobs was welcome, especially the milestones it contains against which we can measure progress. I look forward to engaging with the Minister next year.

Senator Mary Ann O'Brien: I wish to share time with Senator Zappone.

I welcome the Minister and I thank him for attending. He is bathing in flattery but he has been doing the most amazing job for us all. I agree with Senator White about his personal commitment and passion. He must be exhausted from all the trade missions he has been on. He has been proactive and innovative with the microfinance fund, the credit loan guarantee scheme and the action plan for jobs and through his close collaboration with the Minister for Social Protection on the jobs activation measure.

However, this brings me to the issue I wish to raise. Will he collaborate further with the Minister because I am concerned about her mad, crazed proposal to transfer the cost of sick pay to employers? Why do employers pay PRSI? If a company has a sick pay scheme, logic and precedence dictates that absenteeism will increase if someone is out sick. It will double the cost for a company such as mine because if someone is out sick, someone else has to be hired to do his or her job. Business costs will increase and our competitiveness to win tenders against savage, aggressive competitors, mainly in Europe, will be dangerously eroded, potentially resulting in the loss of millions of euro worth of business. While the Minister is collaborating with the Minister for Social Protection, will he pay a call on the Minister for Health to discuss the medical profession's blind nonchalance, which aids and abets the malingerers who take advantage of the easy sick pay certification system we operate in Ireland? I am as passionate as the Minister and his Department about creating a fertile environment for all businesses to flourish in these troubled times but we cannot allow the sick pay proposal or any increase in PRSI to go through.

I acknowledge how well the Minister has done in attracting foreign direct investment. These companies engage in due diligence as they consider where they will place their business globally. The sick pay scheme will not do us any good in the eyes of foreign investors. It is profoundly depressing that we are discussing an action that will prevent job creation, lead to job losses and make businesses less competitive. More Members should be present because

the businesses the Minister is supporting are, in turn, supporting the economy. If we all went down the street now to meet retailers, they would say the scales are fragile and one little push will send them over the edge. This proposal is a push too far and it will prevent companies from employing people in the future and it might even serve to put some of them out of business. I acknowledge the Minister for Social Protection needs to make savings but if she examines the business strategy of Ireland Inc. and the bigger picture, she will recognise that this will have drastic results in the future for small businesses. She says it will not affect small businesses. Let us take a business like mine, a small to medium-sized enterprise, SME, with 120 employees and a turnover of just under €20 million. I know for sure, having discussed the matter at length at management meetings and board level, that the proposed sick pay arrangements would have a disastrous effect on our company's competitiveness. I am one of the great stories in the exports sector, as are many of my colleagues in the food industry. It is not just the little retailer or the hairdresser but the Minister's clients who admire him who are concerned about how this proposal could affect them. I implore him to collaborate with his ministerial colleague to ensure this arrangement is not implemented.

Senator Katherine Zappone: I welcome the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, and his positive update on the Action Plan for Jobs. One fact that I notice he has left out of his positive update relates to the job creation exchange he has had with Washington State, from where I come. The Minister hosted the state's governor, Ms Christine Gregoire, in the summer and has been on a trade mission to Washington. I compliment him on this work and the jobs that have resulted from these exchanges. I hope he continues to operate in this way.

The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, has implemented substantial reforms in public sector procurement since taking office. We see reforms in public procurement in the centralisation of many of these functions in the National Procurement Service. There are many benefits attached to this system, including savings to the Exchequer. Are we fully utilising the job creation possibilities of this system, or are we pursuing a short-sighted cost-saving exercise? For example, next summer mandatory contracts for stationery supplies for non-commercial public sector organisations will come on stream. I have been approached recently by a school in Tallaght that falls into this category. It is concerned that it will have to cease the purchase of stationery supplies from a local supplier from whom it has purchased its supplies for the past 18 years at competitive prices. Instead, it will have to purchase stationery supplies from the company the National Procurement Service chooses. The local supplier employs three people and I am one of his clients. Their jobs may be at risk as a result of the introduction of centralised contracts. The head of the Small Firms Association recently told the Oireachtas joint committee on jobs that many small and medium-sized enterprises were having difficulties under the new procurement system because a central procurement system tends to favour the larger business and much of the process is focused on price. I am aware that the Department has several initiatives that focus on assisting SMEs in competing for contracts, including informing them how to submit tenders and breaking down contracts to make them more accessible. However, a complementary approach could be taken by requiring procurers to make provision for social benefits when awarding contracts. This is permitted under EU law and in place in many EU member states. Deputy John Lyons has introduced a Bill on procurement that would require a percentage of tender assessments to consider the social benefits. Many EU member states not only allow but require public procurers to take potential social benefits into account in a variety of circumstances. According to European Commission research, over half of member states have references to the promotion of social responsibility in

public procurement. However, Ireland is not among them.

The National Procurement Service's annual survey made two recommendations on how the promotion of social benefits consideration could be improved. First, it stated procurers should take into account factors that would contribute to the long-term sustainability of local economies when creating and awarding national contracts. Second, there could be greater participation by social enterprises in delivering public services. I have raised the issue of social enterprise with the Minister before when we were feeding into the Action Plan for Jobs. I also note that the Minister of State, Deputy Sean Sherlock, has ordered a detailed study from Forfás of the actions required to be taken by the Government to create jobs in the social enterprise sector. Will the Minister comment on both of these issues? What is the policy of the Government on national procurement and ensuring the sustainment of local economies? Are policies heading in the direction of putting the three people in Tallaght to whom I referred out of business? When will the study from Forfás be completed?

Senator Jimmy Harte: I welcome the Minister to discuss the issue of job creation. I imagine he agrees that eight minutes is not enough and that the Seanad and the Dáil could speak about this issue for many days.

There has been a good deal of positive news, albeit slowly. However, we are moving in the right direction. Sometimes the public believes jobs are not being created, as all we hear about is job losses, but in certain sectors there is job creation, which is good.

I welcome the Minister's innovations, including Microfinance Ireland, the temporary partial credit guarantee scheme, the development capital fund and the loan guarantee scheme. Last week I met Mr. John Trethowan of the Credit Review Office and his staff to get their views on the progress of the office and how it was helping small business. I agreed totally with him that its work was progressing well. I am unsure whether he is of the same opinion of me, but when the economy starts to turn, it will not happen overnight; rather, there will be a gradual upturn and the banks must be ready for it. They should not close doors when the times comes for them to re-finance businesses. The Credit Review Office is doing tremendous work to face up to the problem where small and large companies are in trading difficulties. It works alongside the county enterprise boards in this regard. I call on all Members to encourage small start-up businesses to meet the county enterprise boards with their accountants before meeting the banks. Mr. Trethowan is encouraging them to do this also. In certain cases the Credit Review Office is not getting through, but this is not the fault of Mr. Trethowan; rather, it is the fault of accountancy bodies or the banks. The more people use the Credit Review Office, the more credit that will flow. We must get credit flowing.

At the weekend I was at the local cinema. The cinema may be a barometer of the economy because everyone goes to the cinema, whether one is a millionaire or someone who simply seeks some entertainment at the weekend. The manager commented that he had noticed how busy the cinema was. However, in recent years, coming up to Christmas, as the budget was introduced demand dropped but then picked up again as people became more confident later in the following year. If we provide confidence and certainty in the budget and do not suck any more money out of the economy, cinemas will prosper. The cinema is the closest barometer I can offer for the economy without going into technical and fiscal quotations.

I welcome the loan guarantee scheme. I read about the €250,000 female entrepreneur fund that was launched recently. Will the Minister circulate the details of the fund? Donegal County

Council was represented at a conference held in Boston last week. One of the themes was related to jobs promotion on both sides of the Atlantic for Irish people. A group of female business people, Donegal people living in Boston, are keen to link up more with projects in County Donegal. The fund mentioned would be an ideal source of funding for them. Perhaps €250,000 may not be enough and we need more, but how the money is to be spent is a matter for the Department to consider.

Recently, I spoke to representatives of some small companies in the Donegal region who wanted to become involved in the health care business. Some of them have ideas which I have sent to the Minister who has acknowledged them. They want to become involved in the health care business and are relying on research and development, the funding for which must be increased. CoLab is located at the Letterkenny Institute of Technology and comprises a small group of companies working in software, advertising, innovation, small-scale manufacturing and other areas. The companies are going global and are a microcosm for the economy at large and how we should develop. These people are working with one desk and a chair but are getting results. The research and development support they need should be more readily available.

Senator Mary Ann O'Brien spoke about the sickness benefit scheme that the Minister for Social Protection is considering introducing and I have asked business people in my own area how they feel about it. The response was - and this is something I know to be true after 25 years in business - that in private business there are very few people who take long sickness breaks. It is not because they are any fitter or healthier than others but because of the nature of private business. Absenteeism is not really a problem in the private sector but it is in the public sector. If the Government wants to make savings in that area, it should tell the public service managers to deliver the same efficiencies that exist in the private sector, where the rates of absenteeism are much lower. Having done that, the Government may discover that it does not have to introduce any sickness benefit scheme. All public service departments should be able to deliver better efficiencies because it is done in private business all of the time. I can only speak from my own experience but I do not remember any of my staff being off sick for long periods of time. Perhaps I was lucky with my staff but I believe that is the general consensus among business people. I agree with Senator O'Brien's view up to a point but there is room for the public service to step up to the plate in this regard.

I urge the Minister to be mindful in the budget of the fact that small and start-up businesses need cash in the economy and in peoples' pockets. There is no point having a nice car without a supply of diesel or petrol. We need cash in the economy so that people can go to the cinema, buy popcorn there, buy a burger on the way home and have an extra few euro to spend at the weekends. That is what will make the economy move again and until that happens, the economy will continue to stagnate. We have our own problems here but we also have our own solutions. We have a great record on the export market and if we can bring that success and innovation to the domestic market we will come out of this crisis far quicker than other countries. I thank the Minister for his time.

Senator Feargal Quinn: I welcome the Minister. It is always a joy to listen to somebody with good news and certainly the Minister has brought good news today. The Minister is also hearing great things today. Even members of the Opposition are saying nice things about him. It certainly appears that there is progress and that things are heading in the right direction. We have become more competitive in recent years and because of that, we are making progress. I was delighted to read an article in *The Economist* this week which said that "Indicators of underlying competitiveness like unit labour costs have also turned in the right direction in most of

the countries in trouble...Ireland has done the best, with a 14% improvement since 2008.” We are often accused of talking ourselves down but there is good news here and the Minister has brought some of it with him today.

Having travelled around the country a lot recently, I have met some people who have talked themselves into bad news. They are just pessimists but there are others who have talked themselves into good news. It is so interesting to see some of the success stories. I have been taking an interest in the retail sector more than others and there are great success stories in that sector. I was in Malahide the other day and took a look at the new Avoca shop there. I do not know how many are employed but I estimate that approximately 100 people work in the shop. It is doing some harm to Malahide because everybody who used to shop in the village is now going to Avoca. A chain called Carraig Donn has opened its 21st store even though it only started business a few years ago.

These Irish companies are not looking for somebody else to do a job they can do themselves. They are being innovative and the Government needs to be more innovative in its ideas. Money can be made available from voluntary pension schemes if we encourage people to use part of their funds to free up their finances or invest in house extensions. In 2009 Denmark allowed people to take a portion of their pension funds to cover immediate expenses rather than wait for retirement. Approximately 94% of those who had pensions took out some of their money and the economy was stimulated to the extent that GDP jumped by 1.4%. If we introduce a similar measure we might free up a portion of the estimated €100 million held in voluntary Irish savings to create confidence in the economy. Germany deregulated self-employment and cut back unemployment benefit. One may say that sounds like bad news but the intention was to encourage people to work more. The unemployment rate has fallen almost every year since 2005. Sometimes one must do uncomfortable things or take steps that may not be popular to create jobs.

We regard Sweden as a socialist and left-wing country but many changes have been introduced in that country. State handouts have become less generous and it has become more difficult to qualify for them. The Swedish Minister for Finance, Anders Borg, surprised himself when he introduced a tax cut on that basis. Grocers know that they sometimes sell more and increase their profits by reducing their prices. It is possible to do this if one is smart enough but governments have not thought this through over the years. Sometimes we can take in more money by reducing the tax rate. Further innovation is required in this area. When Charlie McCreevy announced a reduction in the betting tax from 20% to 10%, there were howls that he was helping his friends in the horseracing business. The following year he announced that as he took in more money at 10% than he did at 20%, he was going to reduce the rate to 5%. There were more howls that he was helping his friends in the horseracing business but the following year he was able to announce that he took in even more money at 5%.

The Swedish Minister for Finance firmly believes that job creation and economic recovery start with entrepreneurs. Although unpopular, he believed it was necessary to cut taxes for certain rich people. He argued that in most cases a company would not be created without its owner. There would be no Ikea without Ingvar Kamprad or a Tetra Pak without Ruben Rausing. Both individuals moved out of Sweden. Sinn Féin proposes a wealth tax, which is a sure way of losing a large number of people who would otherwise be willing to invest in Ireland. A high wealth tax and an inheritance tax cause people to emigrate because it becomes too costly to own a company.

Senator David Cullinane: The Senator must be worried. The tax is aimed at individuals with assets worth more than €1 million.

Senator Feargal Quinn: If we are trying to create jobs and attract investment, one sure of way preventing success is sending people out of the country.

Senator David Cullinane: Cut benefits but do not tax the rich.

Senator Feargal Quinn: Ownership is a production factor. Entrepreneurs are a production factor. These people are indeed rich and one can argue that we want to encourage social cohesion but it is also problematic if entrepreneurs are driven out of the country because they are the source of job creation.

In terms of social protection, we must think of other innovative ways to get people back to work. I have spent some time looking at what Sweden has been doing. It introduced a credit for hiring household help. This innovation was designed to spur demand for low wage workers. We think of Sweden as a very liberal country, but it has now reformed its system so that union membership dues, in contrast, no longer qualify for tax relief. Thus, Sweden is encouraging lower skilled people to work and is not ashamed to introduce measures such as a credit for household help. This is something I had never considered.

In Belgium also one can claim a large part of the cost of household help. We should consider some of these steps. I believe local authorities in Denmark are responsible for ensuring the local availability of day care facilities, including child minding. Childminders are supervised and often co-ordinated by the local authorities. Back to Sweden, the combination of lower taxes and fewer benefits there is intended to encourage people to work. The Swedish Minister for Finance says the new system is encouraging more people to take jobs and is the key, not only to faster growth, but also to keeping inequality very low. The Minister for Finance there believes that in the long term, Sweden's reforms will raise the country's employment rate by 5%. We seem to forget about this here. We need to get people into any sort of employment.

Senator Mary Ann O'Brien made a point about something that is threatening jobs, namely, the issue of sick pay payments. She has made such a strong case that there is little need for me to touch on it. However, I believe a huge amount can be done in that area. If we turn a blind eye to the issue and allow what has been suggested to go ahead, we will create a huge gulf in job creation.

I have a personal interest in the Construction Contracts Bill and cannot believe it has got stuck somewhere along the line. The Bill was introduced two years ago and has gone through this House and has passed Second Stage in the other House. However, the Minister of State, Deputy Brian Hayes, is having great difficulty moving it on from wherever it is currently. This is a Bill that will help create jobs. Many jobs were lost when the State paid for big construction contracts, but where the contractor did not pay the subcontractors. I believe we can do a lot on that and would love to see this Minister move on this and help the Minister of State get it off the ground.

Senator Fidelma Healy Eames: I welcome the Minister to the Seanad. Everybody has been praising him here, but we who are in the same party tend to work him to the bone.

The budget is coming up soon and we are doing well in the export market, but we are not doing so well in the domestic economy. Does the Minister have some job creation projects in

mind to boost the domestic economy? Senator White mentioned that we had the Nobel laureate economist, Professor Pissarides, here and he spoke about boosting the domestic economy through public investment projects. For example, in the 1970s one such project was installation of central heating, but now such a project might concern the greening of public buildings. Anything that will boost the domestic economy is welcome. As the Minister knows, the construction sector is flat, as is the retail sector. The Minister should consider this. Aligned to this is the suggestion made by Senator Quinn to release pension funds. I do not know if we have got a definitive response on this yet. In these straitened times, we need to help people find more funds to invest in their local economies.

The Minister mentioned a health innovation hub in Cork. This will be useful. I do not know what it will do, but I know that we need to look at the area of health and the potential for jobs. A concept I have been looking at for some time is that of over-reliance, particularly by young people, on being employed. This is a flaw in our education system. We need to educate more for self-employment and for entrepreneurship. I would like to hear the Minister's views on this. I believe we need to run our children on twin tracks, both the academic track and the self-employment track. Has the Minister considered the concept of an entrepreneurship hub which would help our young people to turn their qualifications into job creating outlets?

I would like to support fully what Senator Mary Ann O'Brien said about sick pay. Job creation starts with entrepreneurs. The Minister must not kill entrepreneurship. We rely on entrepreneurs to create jobs. I will not say much more on the issue because the time available to me is limited. I fully support what Senator Mary Ann O'Brien has said. I have made this point to the Minister, Deputy Burton, previously. We have to consider all of the stakeholders in sick pay - the State, the employer and the employee, who must take more responsibility for his or her health or sickness.

Some of the schemes of financial support for Irish businesses are wonderful. Yesterday, I met a quantity surveyor who had been out of work since 2008, but in the last year has hired 15 people on various small construction jobs. To take 15 people off the live register is a considerable achievement. He did not know about any of these schemes. His accountant did not inform him. I believe the accountants of this country are not sufficiently well informed about schemes like the revenue job assist and seed capital schemes.

I will conclude by speaking about the need for flexibility in the labour market. One of the things we learned from Professor Pissarides was that job subsidies which offer work experience are better than unconditional unemployment compensation. Sweden has a successful scheme which subsidises the hiring of unemployed workers to replace those on maternity leave and other types of leave. The authorities then pass the unemployment compensation to another unemployed person and pay a wage that is higher than the compensation. National insurance contributions are paid by both the employer and the employee. This form of subsidy is ultimately cheaper than supporting people on unemployment. A similar scheme in Germany has also been successful. I ask the Minister to work with the Minister, Deputy Burton, on this concept. We need to give young unemployed people an opportunity to gain experience and feel purposeful, rather than sitting on their you-know-whats while getting unemployment benefit, which is not good for the State or the young person.

Senator David Cullinane: I welcome the Minister to the House. We sometimes suffer from groupthink in this House. A great deal of positivity is being directed towards the Minister this afternoon. Some positive things are happening. I assume the Minister accepts the reality

that we have a substantial job to do to create the jobs needed to reduce the current standardised rate of unemployment, which is 14.8%. Over 300,000 jobs were created between the first quarter of 2007 and the first quarter of this year. There has been a seismic shift in the whole economy of this State due to job losses, etc. Obviously, the Minister is conscious of that. He is not responsible for the mess he inherited, but he is responsible for trying to work through it. Collectively, we all need to do our best to create jobs for the people of this State. The Minister has my support in that regard.

Three big issues are facing the State in this regard. First, we need an economic stimulus and a proper employment plan that creates the jobs we need. Second, we need a fiscal strategy that is about fair budgets, as Senator Harte said, rather than taking money from people's pockets. When we are framing our budgets, we have to be conscious of the impact of budgetary decisions on the domestic economy. Third, we need a bank deal. I do not believe we will create the jobs we need until we get these three interconnected pieces of the jigsaw right. Sinn Féin has presented a real and detailed job stimulus strategy that would involve an investment of €13 billion in job creation and retention. It would be funded by the National Pensions Reserve Fund, the European Investment Bank and the private pensions sector. I remind the Minister that innovative ideas are being proposed by Opposition parties, trade unions and business organisations.

I would like to make a point about regional disparities. The Minister will accept that the south east, where I come from, has an added problem because it suffers from a high level of unemployment that is 5% above the national average. There is a focus on short-term measures that will create as many jobs as possible in the short to medium term, but we also need to show some long-term thinking on the basis of where our economy came from over the last 30 to 40 years. The south east is a good example of a region which was over-dependent on manufacturing, where students left school early and people were not inclined to be innovators and entrepreneurs because they were able to take up employment in big factories such as Waterford Crystal, Bausch and Lomb, The Foundry and so on. The entrepreneurial drive was non-existent because of an over-reliance on manufacturing. However, that is now gone, leaving a whole swathe of people, aged between 30 and 50 years of age, with no jobs and needing to be reskilled, which is only one problem.

Aside from the short-term immediate policy decisions which need to be made to create jobs now, we need to consider how we can foster a new culture of innovation among young people, in particular in areas which have under-performed, of which the south east is one. I genuinely believe that this needs to be addressed at primary and second school level. I have previously made the point to the Minister that in the case of the Young Scientist of the Year award, we need to be looking at incentives for the business sector which will encourage creativity, a thinking outside of the box and an entrepreneurial spirit. We also need to ensure people see entrepreneurship as an opportunity and are encouraged to avail of it.

The ground has shifted. We are in a completely different situation because of the economic crisis. Out of the ashes of any crisis comes opportunities. Those opportunities will only be grasped in the long term if we ensure that we are genuinely fostering creativity at primary, second and third level and that people have equal opportunities to be entrepreneurs, thus creating the jobs we need. I am asking the Minister to think long term as well as short term.

Acting Chairman (Senator Michael Mullins): There are three speakers remaining, Senators Brennan, Barrett and Norris. As I must leave sufficient time for the Minister to respond, if the Senators are agreeable they can have two minutes each.

Senator Terry Brennan: I am aware of the Minister's views on the small and medium size enterprise sector, which comprises approximately 190,000 businesses. I have previously said in this House that if only 60% of them created one additional job it would make a difference.

The sick pay issue was mentioned. I have previously raised this issue personally with the Minister. I believe, and I hope the Minister agrees, that requiring SMEs to meet the cost of the first four weeks of sick pay would be a further imposition on the sector at this time. It is hoped no further tax will be imposed on this sector in the forthcoming budget. This sector will in my opinion play a significant part in our economic recovery.

Many SMEs are devastated and vulnerable, with some totally broken. Many are operating on a shoestring trying to maintain their small workforce and themselves in jobs for as long as possible. Local people are working together to keep their businesses afloat. Several small business owners who were unable to handle the pressures - of which there are many - have, unfortunately, taken their own lives. Two men, whom I knew, who ran small industries for up to 30 years took their own lives because they were no longer able to cope with their problems.

The small and medium enterprise sector is unaware of the good news which the Minister announced today. Perhaps he would consider blowing his own trumpet and bringing this good news to more people.

Senator Sean D. Barrett: I welcome the Minister, Deputy Bruton, to the House. It is always great to see him here. I was involved in the Culliton report which provided previous Governments with advice on this problem. As stated by the Minister, a great deal of progress has been made. The Nobel prize winner in economics, Professor Pissarides, from Cyprus who spoke in this House recently was keen on flexible labour markets, internships and not giving young people money for doing nothing by having them stand in for staff on maternity leave. One of his themes is that something other than just the dole should be available for young people. We will obtain a full copy of his speech and forward it to the Minister and his officials.

I accept that the reorientation of the banking system is necessary. Between 1998 and 2008, the level of credit advanced by Irish credit institutions rose from €66 billion to €392 billion. Only 1.9% of this went to either agriculture or industry. I have tabled a measure in this regard to which I hope the Minister will give consideration. I refer to the Mortgage Credit (Loans and Bonds) Bill 2012, which advocates that we should adopt a system of mortgage provision similar to that which obtains in Denmark. If we can get Irish banks out of lending to those who wish to purchase homes - which still accounts for 75% of their business - and encourage them to lend to industry instead, this would provide a terrific boost. Apparently, the Danes have pension funds which are willing to invest in mortgages. I understand that at one point IDA Ireland had plans to bring the Danes into the IFSC. If we moved to the model to which I refer, there would be a different way of financing housing and we could free up the money the Minister needs for the microfinance programme, etc.

There is also a need to reorient the education system, particularly in the context of languages and maths. Too many language departments in Irish universities have been put under pressure. As Senator Clune indicated, approximately 80% of maths teachers do not possess qualifications in maths. This is not of assistance when there is a mismatch between the jobs being brought into the country and the qualifications of those who are unemployed. I understand the Minister of State, Deputy Sherlock, is interested in changing the position in this regard.

On the efficiency of sheltered sectors and the McLoughlin report on local government, Limerick had twice as many local authority staff per head of population as south Dublin. It is a good idea to amalgamate the authorities involved in this regard. All the sheltered sectors must be addressed. Industrial policy is not just the responsibility of the Minister, there is an issue of total competitiveness here. There is also a need to examine upward-only rent reviews and the practice of lobbying for tax breaks which do not result in jobs being created.

I have run out of time but I wish to state that those of us on this side of the House will support the Minister in respect of any action he proposes to take.

Senator David Norris: I wish to strongly support my colleague and friend, Senator Mary Ann O'Brien, who is an extraordinary example of someone who is an entrepreneur and who has created a significant business interest. She and her husband used their entrepreneurial genius in order to launch the Jack and Jill Children's Foundation. These are the people to whom we must listen. They are not crazy, they have experience.

I have been approached by the organisation which represents small and medium-sized enterprises, ISME. These enterprises, of which there are 9,000 or so, employ 250,000 people. They already pay PRSI in respect of their employees and for replacement staff and they are now being whacked again. Is there going to be a reduction in the PRSI they pay in order to compensate for this?

Sickness schemes help to create sickness. On radio in recent days an employer recounted the story of meeting an employee who was out sick from work and who was returning from a skiing holiday. I do not understand how a doctor could have examined someone who was in Switzerland. The average number of sick days taken each year by people who work for small and medium-sized enterprises is three. The figure for the public service is 12 or more. I do not want to cause a breach between the public service and those in the private sector. However, it is intended to whack those who are putting their own livelihoods on the line for the sake of their businesses. These people get sweet damn all from the State if those businesses get into difficulties. They have no insurance but they are obliged to pay it for others. In 2011, 185,000 days were lost to sick leave in the Civil Service. Some 72,000 of these relate to staff in the Department of Social Protection, where Deputy Burton is Minister. That is extraordinary. A total of 5,000 employees of the HSE call in sick every day. This is not the case among those who work in what I refer to as the real world.

My final point relates to what will be the impact on crèches and child care facilities, which are already on the margins. The Government is aware of the position in this regard. Some 37% of child care facilities have indicated that they will be obliged to make staff redundant and a further 42% have stated that they will have to increase their fees.

There is a need to reconsider this matter. The Minister for Social Protection, Deputy Burton, is a fine individual. The Minister before the House, Deputy Bruton, is also a fine individual but I do not have time to pay adequate tribute to his many qualities.

Acting Chairman (Senator Michael Mullins): The Senator definitely does not have time.

Senator David Norris: If we want to encourage industry and enterprise, then we should not kill them where they already exists by introducing particular measures. I am of the view that some explanation should be provided in respect of those measures. The very least that could be done would be an equalisation and balancing. One cannot pay for things three times;

once with PRSI, once with replacement and now this apparently mad notion.

Minister for Enterprise, Jobs and Innovation (Deputy Richard Bruton): Senator Mary White raised the issue of 8,500 vacancies even though we have high emigration and high unemployment. The action of the Minister for Education and Skills, Deputy Ruairí Quinn, to double the output in the ICT area is an important response. Senator Clune referred to conversion courses. Equally, students and parents must take note. At the start of this decade 9.5% of students did ICT courses. By 2007 the percentage had dropped to approximately half the amount. People voted with their feet to move their study away from the skills that drove an open economy into the skills that drove the property sector. Unfortunately, it is not just the banks that collapsed; but our choice of career went astray. That is an important issue.

Senator Clune made an important point, which is worth reiterating, that approximately 50% of businesses are online but less than half of those trade online. That is shooting themselves in the foot. The statistics show that companies that go online double their rate of turnover growth. It is important to get people to switch. The CEBs have been doing work in this area, as have companies such as Google. More could be done. The Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte, is very interested in the issue.

I thank Senator Clune for her work on ICT skills. Real issues arise in that regard. She also spoke about other areas that are not as big as ICT but should be examined. The plastics sector is giving out about lack of skills. It is eminently possible to fill such positions. We must build more connection between our industries and our educational institutes. Dare I say, business must think a bit more long term. We do not have the tradition, as they have in Germany, of traineeships, where people commit to provide places to bring on the next generation of expertise. We need to see more of that approach.

Senator Mary Ann O'Brien raised the issue of sick pay. I acknowledge that could be a problem. Senator Harte referred to the much higher level of sickness in the public sector at approximately 5% compared with 2% in SMEs. We must be careful about anything that would increase the cost of employment. That said, there is a genuine issue in that we seem to have a very high level of long-term dependency under sickness headings on the social welfare system. It is similar to people drifting into long-term unemployment. We have a system where people drift into long-term sickness dependency. We must think of other ways to deal with the issue. Employers must consider how to bring such people back to the workplace rather than accepting that such people drift into receipt of invalidity pension. That is a more important issue to be examined.

Senator Zappone raised procurement policy. There is clearly a conflict between the need to get best value, which largely means centralised contracts and cheap price, and diversity of supply. I accept we must find savings in procurement, which is the lowest hanging fruit. There is no point in us paying 50% more for paper because we scatter it across thousands of contractors. That is madness. We must ensure that innovative companies get the opportunity to bid for business and that, as they do in the United Kingdom and elsewhere, we encourage innovative companies. In the action plan we have a number of good models such as the ESB and several others which do not come to mind. They work with innovative companies to get the first sale and get the company to have a reference sale and the ability to sell beyond that. We can commit to such an approach. We must engineer procurement to favour it but I do not think we will be able to say that there will be a stationery provider in every village in the country. It does not make sense to cut front-line health care in order to support that level of inefficiency or waste.

5 o'clock

There are different pressures we have to accommodate. Social enterprise comes under the action plan and will be delivered on before the end of the year. There is scope for social criteria to be included in tenders, which the Minister of State, Deputy Brian Hayes, is examining. Taking someone off the live register in the area where the contract is being awarded, for example, is legitimate under EU rules. Some other points suggested that would favour local suppliers would not be legitimate.

Senator Harte raised the important issue of how small businesses prepare their credit requests for their banks. The banks are at fault for the very high refusals for credit. However, Mazars's and other studies show applications from small businesses are sometimes not just good enough. They are also not using the appeals mechanism internally in the bank or in the Credit Review Office. We need better support for small businesses to present their case well and be willing to pursue it after the first refusal.

The first competitive feasibility fund for female entrepreneurs, coming to €250,000, was oversubscribed. We got 100 applications when we expected between 30 and 40. We are offering another fund, coming to €500,000, which will close on 4 December. Hopefully, it will be equally successful.

Senator Quinn raised the matter of voluntary pensions. That issue is beyond my pay grade. There was an incentive where voluntary pensions got a special dispensation in not paying tax to provide for long-term pensions. There are issues as to what funds would be let out of this. It is a matter for the Minister for Finance to consider. In the past, I have noted the Revenue Commissioners being uneasy about this. Senator Quinn also raised the point about a low-tax system for entrepreneurship. Senator Healy Eames's brandishing of our little leaflet is our answer to that. If people want to establish a company, they can get €600,000 from their previous PAYE tax to put into their company. There are generous tax reliefs to get people to switch into entrepreneurship. These are the sorts of incentives we need to create and get more take-up of them. The truth is that only 70 people take up these schemes every year when the Global Entrepreneurship Monitor, GEM, points out nearly 2,000 businesses are set up every month. There seems to be some breakdown in communication which we are seeking to address by having this information available through the Companies Registration Office, county enterprise boards and local enterprise offices.

Senator Cullinane and others asked if we could make big and bold public investments. The Ministers for Finance and Public Expenditure and Reform are trying to get public investment off the balance sheet. A bold stroke is setting up funds for innovation, infrastructure and small and medium-sized enterprises, SMEs, which are off the balance sheet and are renewable which can help to drive investment. For example, these include using the capital from the national lottery to fund the national children's hospital and water charges for funding investment in the water system. Those are the ways one drives investment when one is fiscally constrained. We have to think smarter than just calling for big spending on public investment.

I support education for entrepreneurship in whatever way we can use it. We will be using the local enterprise offices to promote it. Revenue job assist is a generous subsidy to fill vacancies. Again, maybe we can smarten up the ways these are oriented. This is a double tax

relief for three years against wages for the employer plus a tax relief for the employee taken on. It is worth €30,000 to a sole trader to take on someone over three years who is long-term unemployed.

The sheltered sector is always with us. Reforming the legal area and local government is very important. However, I do not believe we are at the end of this.

I thank Senators for their input.

Ninth Report of the Committee of Selection: Motion

An Leas-Chathaoirleach: The Committee of Selection reports that it has discharged Senator Susan O’Keeffe from membership of the Committee on Procedure and Privileges at her own request and has appointed Senator Aideen Hayden in substitution for her. The Committee of Selection reports that it has discharged Senator Marie-Louise O’Donnell from membership of the Joint Committee on Education and Social Protection at her own request.

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

Question put and agreed to.

Fiscal Responsibility Bill 2012: Committee and Remaining Stages

An Leas-Chathaoirleach: Amendments Nos. 1 to 4, inclusive, tabled by Senators Reilly, Cullinane and Ó Clochartaigh are in conflict with the principle of the Bill and must be ruled out of order in accordance with Standing Order 124. The purpose of the Bill is to give legislative effect to key provisions of the stability treaty already ratified by the State relating to fiscal policy rules, a budgetary rule, a debt rule and a correction mechanism if there is a significant deviation from the budgetary rule. This requirement is binding and mandatory on the State and a consequence of the ratification of the treaty.

Amendments Nos. 1 and 2, in the names of Senators Reilly, Cullinane and Ó Clochartaigh, propose to modify the obligations under section 2 and to comply with the fiscal policy rules by deleting “shall endeavour” and substitute “may decide” to secure the fiscal rules “so long as doing so is conducive to the social and economic development of the State”. Amendment No. 3 proposes to modify the obligation under section 4 to comply with the debt rule requirement by providing that the debt rule will be complied with “so long as doing so is conducive to the social and economic development of the State”. Amendment No. 4 proposes to modify the obligation under section 6 to put in place a correction mechanism by proposing that a Government may put in place a corrective measure.

These amendments are in conflict with the principle of the Bill as agreed on Second Stage and, accordingly, must be ruled out of order in accordance with Standing Order 124.

Section 1 agreed to.

Amendments Nos. 1 and 2 not moved.

Section 2 agreed to.

Section 3 agreed to.

Amendment No. 3 not moved.

Section 4 agreed to.

Section 5 agreed to.

SECTION 6

Amendment No. 4 not moved.

An Leas-Chathaoirleach: Amendments Nos. 5 to 11, inclusive, are related and may be discussed together.

Senator Kathryn Reilly: I move amendment No. 5:

In page 7, subsection (2), between lines 4 and 5, to insert the following:

“(a) prioritise the generation of economic growth, job creation and delivery of high quality public services.”.

This series of amendments has been designed to ensure the Government’s plan, in the event that there is a breach of the austerity rules, would take into account “the generation of economic growth, job creation and delivery of high quality public services”. The aim is to avoid the plan becoming a box-ticking exercise. If we are to run the economy by rules, we should include rules which would ensure our economic policies were designed to reduce poverty or create jobs. Any such plan should be realistic and any plan which did not take these goals into account would be doomed to fail. The current plan just includes compliance with the budgetary rules, with annual targets for the size and nature of revenue and expenditure measures to be taken and how they relate to different sectors. While this is required to meet the rules under the treaty, it does not negate or rule out the possibility of including in the plan measures that would lead to economic growth, job creation, a reduction in poverty and the delivery of high quality public services. While taking account of these targets, it is important to take cognisance of what is happening in the real domestic economy and to citizens. We cannot continue to chase targets that will further depress economic growth. Any such plan should be brought before the Oireachtas and fully debated.

Amendment No. 5 seeks to require the Government to take into account issues such as the generation of economic growth, job creation and the delivery of high quality public services when drafting a plan to meet the debt and deficit targets contained in the Bill. Amendment No. 6 aims to strengthen the requirement on the Government to include these important social and economic indicators. Amendment No. 7 seeks to broaden the scope of the plan to include an impact assessment of any measure proposed in respect of key social indicators such as income equality, social inclusion and poverty reduction. Amendment No. 8 seeks to place an obligation on the Government to carry out equality and anti-poverty impact assessments of all expenditure and revenue measures proposed in the plan. Amendment No. 9 would require the seeking of the approval of the Oireachtas for any plan rather than Government approval only. The purpose of

the amendment is to ensure there would be adequate debate, public scrutiny and parliamentary oversight in the final agreement of the plan. Given the significant impact its measures will have on the social and economic well being of the State and its people, such a debate and public and parliamentary oversight are crucial. Amendment No. 11 seeks to introduce a provision that would allow a future Government to derogate from the debt and deficit rules if it believed that doing so would be in the best social and economic interests of the State. If the Government did so decide, the amendment would place a requirement on the Government to explain why that was the case.

Senator Sean D. Barrett: I have tabled an amendment in this group, namely, amendment No. 10, which proposes to change the timeframe from two months to one month. If it is a crisis or there is good news, why not do it quickly? That is the essence of the amendment. In general terms - I hope this does not sound demeaning - the Minister is categorised in the legislation as a kind of Goldilocks. The mixture is too weak, although Senator Kathryn Reilly thinks it is too strong. The Minister of State has to prove that it is just right. I see the Fiscal Responsibility Bill as essential for us to obtain low interest rates on our borrowings and prove we can manage our affairs. I support the targets set, but I appreciate that my colleague, Senator Kathryn Reilly does not. My amendment proposes that we prepare the plan in one month rather than two months.

I have a related query for the Minister of State on section 6(4) which reads:

If the Government considers that exceptional circumstances have arisen during the period specified in the plan, the things specified in the plan are no longer required to be done; but when the Government considers that the exceptional circumstances have ceased to exist, the Government shall, unless there is no longer a failure such as is mentioned in *subsection (1)*, within 2 months prepare and lay before Dáil Éireann a new plan under that subsection.

However, in the following subsection the word “may” rather than “shall” is used. If I am reading the two subsections correctly, if the news is good, the Government “shall” act, but if the news is bad, it “may” act. What is the difference between the two? Is this an issue that might be revisited on Report Stage?

Minister of State at the Department of Finance (Deputy Brian Hayes): I thank the Senators for their amendments. As stated during the Dáil debates, on both Committee and Report Stages, the policy issues raised in the amendments are of much wider scope than the substance of the Bill. The Senators have identified some of the issues any Government would have to consider in preparing a correction or budgetary plan. However, it should be noted that we are talking about a plan, not the actual detailed legislative and budgetary proposals that would have to be brought before the Oireachtas in the normal way.

A key purpose of the Fiscal Responsibility Bill and the stability treaty is to correct budget imbalances where we have deviated from converging with our medium-term budgetary objective, from the adjustment path or complying with a debt rule. Section 6 was drafted on the basis of common principles, as required by the treaty. While the Government - or any future Government - will always seek to promote economic growth, job creation and the delivery of high quality public services, it is highly likely that deployment of a correction plan could result in unpalatable choices that might not be in compliance with the suggested amendments, at least in the short term. Having sustainable public finances is a key element of sustainable economic

growth. Giving priority to economic growth, job creation and the delivery of high quality public services could, therefore, prove to be an obstacle to or a limitation on the Government's choice in terms of the actions needed to ensure sustainable public finances. In working to ensure the sustainability of public finances, any government should be able to access all possible policy levers. Every budget day the Government publishes illustrative cases showing the effect of major changes in revenue and certain social welfare payments on the categories of married couples, civil partners and single income earners. The impact of the budget on the various groups of people is set out.

With regard to requiring Oireachtas approval before adopting the plan, amendments which could result in the contravention of our treaty obligations cannot be accepted. The stability treaty requires the triggering of a correction mechanism if there is a significant deviation from the medium term objective or the adjustment path towards it. Furthermore, non-compliance with the budgetary rule would contravene the stability treaty.

I do not propose to accept Senator Barrett's amendment No. 10, which would require a statement to be laid before Dáil Éireann within one month. I am grateful for the comprehensive Private Members' Bill which the Senator introduced to this House. His Bill was in effect parked because the Government is bringing forward its own legislation. I assure him there is convergence between his legislation and what the Government proposes to do. I hope the final Government Bill will reflect the key objectives he set out. The Seanad decided not to oppose his Bill because it made a constructive contribution towards the final product that we are now debating.

While amendment No. 10 makes an interesting contribution to the debate and suggests a need for urgency, I remind Senator Barrett that the plan under discussion involve steps aimed at avoiding the breach of the budgetary rule. Such a plan could involve information on budgetary and expenditure measures. The preparation of such material takes time and a tight deadline would only contribute to an increased risk of error. The recent economic history of this country suggests that events have a tendency to overtake us. Two scenarios spring to mind. The first is where the Government concludes that it may fail to comply in the run up to the annual budget. A requirement to present a plan within one month could result in two major budgetary announcements being made in a matter of weeks when it may be more appropriate to await the national budgetary announcement. A second scenario would be where a requirement falls due during or just after a general election campaign. Such matters should be left to an incoming Government to decide. For these reasons, the provision was drafted using the word "may" and the period of two months. There is nothing to prevent the Government from publishing its plans within one month and that would be the optimal timeframe but the Minister for Finance believes that setting a deadline of one month is too prescriptive. The general framework of two months allows greater latitude in terms of what has to occur under this section.

Amendment put and declared lost.

Amendment No. 6 not moved.

Senator Kathryn Reilly: I move amendment No. 7:

In page 7, subsection (2), between lines 14 and 15, to insert the following:

“(e) outline how revenue and expenditure measures will contribute to the objectives of greater income equality, social inclusion and poverty reduction.”.

Amendment put and declared lost.

Senator Kathryn Reilly: I move amendment No. 8:

In page 7, between lines 14 and 15, to insert the following subsection:

“(3) All revenue and expenditure measures contained in the plan must be subject to equality and anti-poverty impact assessments the details of which will be published as appendices to the plan.”.

Amendment put and declared lost.

Senator Kathryn Reilly: I move amendment No. 9:

In page 7, between lines 14 and 15, to insert the following subsection:

“(3) The plan shall only be adopted following approval of the Oireachtas.”.

Amendment put and declared lost.

Amendment No. 10 not moved.

Senator Kathryn Reilly: I move amendment No. 11:

In page 7, subsection (5) lines 32 and 33, to delete all words from and including “outlining” in line 32 down to and including “failure” in line 33 and substitute the following:

“outlining the reasons it considers non-compliance with the budgetary rule to be in the best social and economic interests of the citizens and the State”.

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

Amendment declared lost.

Question proposed: “That section 6 stand part of the Bill.”

Deputy Brian Hayes: Senator Barrett asked a question earlier about the section.

Senator Sean D. Barrett: I asked about the difference-----

Deputy Brian Hayes: The question was about subsections (4) and (5).

Senator Sean D. Barrett: If I read the sections correctly, which of course may not be the case - I thank the Minister of State for his earlier remarks - “shall” applies if the news is good and “may” applies if the news is bad. Should the Government not be required to announce the bad news to allow us to address the problem? I ask the Minister of State to consider this issue on Report Stage.

Deputy Brian Hayes: The issue was also raised in the other House. Subsection (4) applies where a correction plan is in operation, as required under section 6(1). If exceptional circumstances arise during the implementation of the correction plan, its implementation will be stopped when the circumstances change. That is straightforward. A new plan under section 6(1) would then be required. Subsection (5) deals with a potential future breach of the budget-

ary rule, hence the word “may”. One cannot be as prescriptive about a potential problem.

Question put and agreed to.

Section 7 agreed to.

SECTION 8

Senator Kathryn Reilly: I move amendment No. 12:

In page 8, subsection 4, between lines 15 and 16, to insert the following:

“(a) provide an assessment of whether the fiscal and budgetary policy of the Government is contributing to economic growth, job creation, the delivery of high quality public services, greater income equality, social inclusion and poverty reduction.”.

We welcome the establishment of the Irish Fiscal Advisory Council because the more independent analysis provided, the better. We have been critical of some of the council’s recommendations but that should not be understood as an objection to its establishment. However, its terms of reference as outlined in the Bill restrict its ability to assist governments in making the right economic decisions. This amendment would expand the council’s remit to include the stimulation of economic growth, job creation, the delivery of high-quality public services and poverty reduction in its assessments of the impact of fiscal policies.

Deputy Brian Hayes: I thank Senator Reilly for tabling amendment No. 12. We do not propose to accept amendment No. 12. The fiscal council has been established to address gaps in fiscal policy analysis and to provide assessments and recommendations on fiscal policy. Imposing a wide mandate on the fiscal council would require larger resources, both in staff and budgetary allocation. Expanding the mandate would likely impede the council’s ability to fulfil its core functions, including those specified in the treaty. Furthermore, some of the suggested functions are the job of the Government. It is important to note that a number of bodies are supported by the State, such as the ESRI and the NESC, and their reports consider all aspects of policy development, including the social impact.

In addition, we are not willing to assign functions that are not outlined in the Bill to the fiscal council. The view is that the task of the fiscal council is quite straightforward. It is to give its view to the country and the Government on fiscal policy generally. If the intention of the amendment is to widen that remit, it could take away from the core function, which is to give independent advice to the Government. As I mentioned previously, the council’s remit is to be the contrarian, to take the opposite view and put pressure on the Government to justify its position. If we extend its remit into a range of other areas, not only do we take from other agencies that comment on these matters, but we take the focus of the council’s fundamental task. We wish to ensure that the fiscal council has the resources it needs to complete its core functions. Expanding the functions would stretch the resources of the council to a point where its focus and attention would be removed from its primary role. We do not want that to happen.

Amendments that add requirements which are already covered by the requirements of the Stability and Growth Pact, which are published in the annual stability programme update, are unnecessary. Section 2, Article 3, of the 1997 surveillance and co-ordination regulations requires the State to take into account the future pension liabilities of the State and this informa-

tion is contained in the annual stability programme update. The fiscal council is required to provide an assessment of the official forecasts, which includes an assessment of the stability programme update. For these reasons, we do not propose to accept amendment No. 12.

Amendment put and declared lost.

Senator Sean D. Barrett: I move amendment No. 13:

In page 8, subsection (4)(b), line 22, to delete “Pact.” and substitute the following:

“Pact, and the attainment and retention of fiscal responsibility and international evidence on the problem of fiscal imbalance.”.

The Bill is a fiscal responsibility Bill and we have set up a fiscal council. I have a little less confidence in the bodies mentioned by the Minister of State. They were all in place when we got into this trouble, hence we need a new institution. The NESC represented the Secretaries General of approximately six Departments and the social partners and I would hate to rely on it for much advice as we move forward trying to address this problem. The same could be said of certain other institutions, including perhaps the ESRI, which told us the banking crisis was manageable.

We got into trouble to such a degree between 2008 and 2010 that we need this new institution. Therefore, I would like it to comment on these issues. The council has been set up under the umbrella of fiscal responsibility and should comment on anything it wishes to in order to retain fiscal responsibility in this country. For instance, we might say the IMF has a cheek advising us on the health service, but if it genuinely believes the way we run the health service has contributed to the problems we are all trying to address, it should be entitled to say that. It may not look for funds to reorganise the health service, but if it sees problems, it should be able to point them out.

We know the problems it saw. The regulatory capture of the Exchequer by the banks on that notorious evening, the success of lobbying by various groups, such as construction and banking, poor appraisals of capital and the health case it is concerned about. When the IMF is gone, will the impetus it has given to the Minister of State and Ministers Howlin and Noonan to speak out be gone? Will they continue to be able to say to the Minister for Health, for example, that they are sorry, but compared to what they are trying to do to run the country, with a 60% debt to GDP ratio and unable to borrow more than 0.5%, they require the problems of the spending Departments which have a proven track record of attracting the annoyance of the IMF during our rescue period to be addressed. Issues such as stealth taxes and so on must be addressed. We must also address weaknesses in monetary policy, such as that we spoke about earlier with the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, namely, the vast increase in lending outside manufacturing and agriculture. To retain the fiscal responsibility status to which we all aspire requires the fiscal council, as the guardians of that, not to be bound by the fact that other institutions, like the Central Bank, the ESRI and the NESC, did not do their job. That is why we have set up this new institution, the fiscal council. Having the contrarian view, as described by the Minister of State, would be viable. I recall an article in *The Sunday Business Post* some weeks ago by two former assistant secretaries in the Department of Transport, Pat Mangan and John Lumsden. We need that contrarian culture, but we do not have it.

How are we to ensure all the mistakes we made do not happen again? If the fiscal council can help us, as the independent voice described by the Minister of State - which we support -

let it speak out, rather than have a lawyer go through the Stability and Growth Pact saying the council cannot say anything about the health service because it is not in the pact agreed by 27 other countries or whatever. Instead, we should say: "Yes, it is addressing the Irish situation." It is about time certain lobby groups and certain successful cases of regulatory capture had in fact a contrary voice to assist the Cabinet in bringing the country to solvency and keeping it there. Whatever forces undermine that, it is a good idea if the fiscal council can give them a lash, particularly since some of the other watchdogs were asleep and did not bark during critical periods. Hence the need for this Bill.

Deputy Brian Hayes: I thank the Senator for his amendment as it has opened up this debate. The fiscal council is entirely independent of the Government. Professor McHale and his colleagues are doing a very constructive job in speaking out and giving their assessment as to where we stand in terms of the current fiscal imbalance, referred to in the Senator's amendment.

I agree with the Senator that the objective of this exercise is to prevent group think from happening again. Group think is the predominant culture upon which the economy crashed. This was highlighted in a number of reports on the financial crisis. We are entirely satisfied that the fiscal council has the independence and the ability to manoeuvre and speak out on all of these issues. Its task is primarily to highlight questions of fiscal imbalances. The reason fiscal imbalances occur is because expenditure gets out of kilter or tax revenues from one year to the next do not meet their target. With regard to why this has happened, it is logical the fiscal council would comment on the reasons or point out that under a particular subhead, we have not obtained what we wanted or another area of expenditure is way out of kilter.

The considered view of the Minister for Finance is that the council's independence and ability to speak out and assess the situation is unlimited in terms of what it must say. One of the objectives in any process of legislation is for colleagues to talk around the sections. This process gives an interpretation of itself, ultimately to be challenged in the courts. Woe betide any Government that would attempt to muzzle the fiscal council. Is it genuinely being suggested that if the fiscal council takes a position on an item of expenditure or takes a stern view against a Minister or expenditure items in an area, a Government will attempt to muzzle that council? I do not think that would happen by virtue of the fact that a stand-alone body is being established under this legislation, as the Senator has indicated. The first thing we would like to say is that we do not think this is going to happen.

One receives wonderfully detailed notes on every amendment. When I was reading the note on Senator Barrett's amendment, I turned to my colleagues and said I did not understand the note. My colleagues said they did not understand the amendment. There is some *déjà vu* in this regard.

I assure anyone who is concerned that the work and functions of the council will be limited in some way that that is not the intention of the Government. No limit will be put on whatever it wants to talk about. I will give an example. I do not want Senator Reilly to think I am being overtly political. I understand that Sinn Féin produced a pre-budget submission today. We encourage all parties to do that. We thank Sinn Féin for its input. Why should the fiscal council not be allowed to express its views on the pre-budget submissions of Sinn Féin, Fianna Fáil or individual Members of the Oireachtas like Senator Barrett?

Senator Darragh O'Brien: The Minister of State can wait until Thursday.

Deputy Brian Hayes: What is sauce for the goose is sauce for the gander. I think it would be entirely appropriate for the council to comment on what aspects of those submissions are achievable and what aspects are not. This is an entirely independent body. It determines its own work plan. Obviously, its functions for the purposes of the question of fiscal balances are set out. It is the strong view of the Government and the Minister of Finance that the fiscal council will not have its hands tied in any way. The scope of the work it would like to do will not be limited.

Senator Sean D. Barrett: Given that the Minister of State did not understand the amendment, he gave a very good response.

Deputy Brian Hayes: I thank the Senator.

Senator Sean D. Barrett: His remarks were important. Ireland is not the only country in this situation. According to a book published out of the University of Cambridge last year by the retired director general of the IMF, Dr. Vito Tanzi, most countries in the world are facing debt to GDP ratios of approximately 120%, regrettably. They spent beyond their taxable capacity. They borrowed in a way that destroyed capital markets and caused property booms. It would be extremely good if Professor John McHale and his inestimable colleagues were able to write about whatever they wish to write about. It struck me as the Minister of State was talking that many of the things which got us into this trouble were commented on over many years by the Committee of Public Accounts and the Comptroller and Auditor General, who is an officer under the Constitution. As we make decisions on how to put our finances right, we should draw on a great deal of the material that is available and give full powers to the learned people concerned. I think the Minister of State has said he agrees with that. This is a multi-faceted problem. Many things went wrong. It is up to all the people working in the Houses of the Oireachtas to make a contribution to seeing how fiscal responsibility can be restored and retained in this country. This will be a problem in a number of other countries as well. I will not press the amendment. I thank the Minister of State for his reply.

Deputy Brian Hayes: I thank the Senator for withdrawing his amendment. We are providing for the formal establishment of the council in legislation. The council has already been hugely proactive and constructive in the assessments and reports it has issued. Now that the council is in place, the Government is required to respond quickly to its assessments. I had to defend the Government in such circumstances on two occasions in the last 12 months. I expect that the Senator has some sympathy with the fiscal council's view that the adjustment should be bigger. The council's statements immediately put the Government on the spot. It is a good thing that the Government has to justify quickly the parameters used when setting a budget or the rationale used for a particular adjustment. That will help the entire political culture to change over a period of time. We will have to make sure we reflect on these matters before we make decisions.

I have described previously in this House some of the dreadful examples of projects in various areas that were driven purely by politics with no long-term benefit to the country. I know Senator Barrett has spoken about this in the past. That whole culture will change as a result of the establishment of the fiscal council and the requirement on the Government and others to reply to what the council has to say. When the council issues a public view, the Government and others have to reply to it. That will help the political and economic culture by ensuring we have a more sustainable economy in the long run.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: As amendments Nos. 14 to 16, inclusive, are related, they may be discussed together, by agreement.

Senator Kathryn Reilly: I move amendment No. 14:

In page 8, subsection (6), lines 28 and 29, to delete “in subsection (3)” and substitute “in any of its assessments”.

I thank the Minister of State for attending this debate. I look forward to debating our pre-budget submission with him at a later stage. Amendments Nos. 14 and 16 essentially aim to ensure there is adequate public scrutiny of the advice of the fiscal council and the Government’s response to that advice. Amendment No. 14 seeks to place an obligation on the Government to respond to all assessments and advice made by the council. I refer not only to advice stemming from the fiscal treaty, but also to advice on budgetary and stability programmes, official forecasts and the Stability and Growth Pact. Amendment No. 16 seeks to ensure the assessments of the council are debated in the Dáil, for example, when its advice is not heeded by the Department.

If we are establishing a fiscal advisory council on a statutory footing to give us independent advice - I am not saying we have to heed or implement that advice all the time - surely that advice merits some type of statement in the Dáil. That would be of particular importance under section 3 of the Bill, which deals with non-compliance with the rules of the treaty. Reference has been made to certain advice that was unheard, unnoticed or dismissed in the past. That has been well documented in the independent reports on the Irish economy that have been released in recent years. If a statutory body is to give advice to the Department of Finance, I suggest that advice deserves a response in the form of an Oireachtas debate. These two amendments call for that to happen. The Government needs to make a comprehensive response to these assessments and ensure they can be teased out in the Dáil.

An Leas-Chathaoirleach: Does Senator Barrett wish to comment on amendment No. 15, in his name?

Deputy Brian Hayes: This is the one-month provision again.

Senator Sean D. Barrett: Yes, it is the familiar proposal to change the response period from two months to one month. If the Government disagrees with the council, it gets two months to respond. Given that the Minister of State is already being sent out there for these great discussions - I would like to be a fly on the wall when that happens - I am really asking why the advice of the council cannot be responded to more quickly.

Deputy Brian Hayes: Two of these amendments were discussed thoroughly on Committee Stage in the Dáil. At the time, Senator Reilly’s colleague, Deputy Pearse Doherty, asked for a fuller response from the Department of Finance to the reports of the fiscal advisory council. When the Minister, Deputy Noonan, committed to get such a response, that was accepted by Deputy Doherty. The same amendment was not moved on Report Stage by Deputy Doherty, who noted the Minister’s response. The evidence of the commitment given by the Minister, Deputy Noonan, can be seen in chapter 6 of the medium-term fiscal statement that was published last week. I understand that the chapter in question includes an assessment along the lines of that requested by Deputy Doherty. The Bill does not require to be amended because

we have agreed to act in this manner from now on when we publish medium-term fiscal statements. A section covering the matters that Deputy Doherty asked about will be included. We do not think there is a need to put it into the Bill because we are already doing it. I hope I have explained that properly.

The common principles adopted by the European Commission require Governments to comply with the assessments set out in section 8(3), or explain why they are not complying with them. If I were to accept the amendments that have been proposed, the Government would be required to respond to all assessments and reports provided by the council. The Government does respond to the assessments of the council. The Minister, Deputy Noonan, has responded to the council's reports in its stability programme updates and in its medium-term fiscal statements. Placing this requirement on a legislative basis would be difficult. The assessments arising from the council's general functions under subsection (4) can be wide-ranging and contain a great deal of analysis and a large number of recommendations. Would Government have to respond to every line of the recommendations or analysis or just a few of the main items? In any event, the Government answers to the Oireachtas and the mechanisms available therein can be used to elicit further responses to council reports.

It is a matter for the Houses to decide what they want to debate. It would be a little previous for the Government to dictate what the Houses should do. It is a matter for them to decide what they want. There is nothing to prevent the Houses from deciding to debate these reports at times suitable to them.

The reference to subsection (3) is a reference to the core functions of the fiscal council under the treaty. In the assessments in question, the fiscal council will analyse, if exceptional circumstances exist or have ceased to exist, and also examine the Government's compliance with section 6 regarding the corrective mechanism. The specifics of the assessments arise from the provisions of the treaty and are precise requirements. They are treaty requirements with which we must comply on the basis of acceptance of the treaty.

With regard to providing for placing requests for a debate in this legislation, requests for debate are as I said earlier, a matter for the Oireachtas. As stated by the Minister, Deputy Noonan, on Report Stage the Government is never reluctant to have debates on any issue. It is clear that a special report of a more crucial nature should take priority and we will be bound to debate that. However, the provision for a Dáil debate need not be written into every piece of legislation. Debate is the normal work of the Dáil and is arranged between the Whips. In addition, it is not appropriate to place in legislation a requirement for debates.

With regard to the shorter timeline as set out by Senator Barrett, as stated earlier this legislation aims to prepare for all eventualities. At the risk that a Government could not prepare such a statement due to an event such as a general election could result in non-compliance with the legislation. It is a type of unintended consequence argument that frequently crops up in legislation, if one attempts to be too prescriptive. While this could be the case with a two month deadline the chances are lessened. As such, I do not intend to accept this amendment, although I do understand the intent behind it. It is the intention of the Government to do so within a month anyway but there could be difficulties if it is prescribed that it do so within a month.

Amendment, by leave, withdrawn.

Amendments Nos. 15 and 16 not moved.

Section 8 agreed to.

Sections 9 to 11, inclusive, agreed to.

SCHEDULE

An Leas-Chathaoirleach: Amendments Nos. 17 and 18 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Sean D. Barrett: I move amendment No. 17:

In page 10, paragraph 1(3)(a), line 9, to delete “desirability” and substitute “requirement”.

As a result of all of the trouble we are in, we are now conscious of the need for competent, professional people on our boards, etc. While previously this was not the case, an attempt is now being made to try to remedy that situation, in respect of which we support the Minister of State. The period between 2008-2010 was a disaster in this regard. We would not, when recruiting a veterinary surgeon, say that it is “desirable” that he or she have particular qualifications rather we would say that it is a “requirement” that that be the case. We would not say that it is “desirable” that people in the health service should have a knowledge of medicine rather it is a “requirement” that that be the case. We do not desire that architects have qualifications, it is a requirement that they have such a competence. It is an absolute essential.

To attempt to remedy the situation in which we find ourselves by saying that it is “desirable” that we appoint qualified people is too weak in terms of what we are trying to do. It is stated on page 44 of the Wright report that of a cadre of 542 staff in the Department of Finance only 39 are economists. It is a requirement that we step up in these matters. Economics is no longer only for amateurs. We are all aware of the problems that arose when we previously had amateurs in this area. Let us ensure we appoint people with the highest possible qualifications and move away from the tradition of it being an optional extra type of subject.

Paragraph 3(1)(a) provides that the Minister in appointing members to the fiscal council shall have regard to the desirability of their having competence and experience in domestic or international macro-economic or fiscal matters. Amendment No. 18 seeks to delete “or” and substitute “monetary and”. It was in the monetary sector that the problems were created not alone in Ireland but in other areas. Wall Street versus main street and quantitative easing to solve the problem of the decline in the computer industry at the beginning of the decade have huge influence down the line in terms of causing property bubbles and destroying banking systems. We need to ensure those appointed to the fiscal council are qualified. The monetary sector can and did do huge damage because many of the watchdogs working therein were fast asleep.

The amendment seeks to ensure that people are properly qualified and that what is going on in banking is monitored. I note references in some of the UK newspapers today to the Bank of England needing to be cleaned up. We will end up in trouble again if we continue with these monetary policies. In broader terms, we need a Government economic service not alone in the Department of Finance but the other spending Departments. We are trying to remedy where in the past there has been a lack of this expertise, plus the other facts referred to by the Minister of State.

Deputy Brian Hayes: I thank Senator Barrett for tabling these amendments. This is an important debate. I have previously been in the House when Senator Barrett raised the issue of the number of people in the Department of Finance with economics qualifications. I expected the Senator would raise the issue again today and have with me the statistics in this regard.

I am glad to inform the Senator that 99 civil servants in the Department of Finance have qualifications in economics, including two PhDs, 37 masters, 46 degrees, 7 diplomas and 7 certificates. There are approximately 300 people working in the Department of Finance which means at least one third of them have economics qualifications. I am reliably informed that, since coming into office, the Government has been focused on bringing in people from the outside who have another perspective to add to the dimensions of the discussion. Approximately 40% of new recruits are from outside the public sector and have economics qualifications. The Senator's figure of 36 is as such outdated.

I do not propose to accept amendments Nos. 17 and 18 for the following reasons. In filling vacancies on the council, the Minister for Finance will have cognisance of the need to have people with the right competence and experience. However, other factors may need to be considered. For example, gender balance or the provision of local knowledge and presence if the remainder of the council are from abroad. In such circumstances, it is prudent to retain some slight flexibility in the legislation. We are not against what the Senator is suggesting. However, tying this to legislation may prove difficult. The existing council is made up of Professor McHale based in Galway, Dr. Barrett based in Dublin, Dr. Barnes from the OECD in Paris, Ms Róisín O'Sullivan, USA, and Dr. Donal O'Donovan who is retired from the IMF and lives in Washington. One could argue that this composition of members represents a broad reflection of international and domestic experience. These are people with knowledge internally and externally, coming from an academic background having worked with large scale international organisations and, like Senator Barrett, universities.

6 o'clock

That is reflected in the composition of the council. However, I suspect it will never be possible to get it entirely right. The Minister requires flexibility in order to ensure he can balance all of these factors in reaching a decision on the membership of the council.

I cannot accept amendment No. 17 for two reasons. First, the Fiscal Advisory Council is in place to advise on fiscal matters. The Government may or may not take advice on such matters. However, in the case of EMU, monetary policy is a matter for the European system of central banks. The Government has no functions or powers in respect of such a policy. The second reason is that the amendment would require any person appointed to the council to have competence and experience in domestic or international macroeconomic monetary and fiscal matters, that is, all three subject areas. This might make matters difficult in identifying candidates with the correct qualifications.

The spirit of amendments Nos. 17 and 18 is very much in keeping with what we are trying to do, namely, achieve the correct balance between international and domestic experience such as that possessed by persons who work with large-scale international bodies and in universities in order that the council will speak with authority. To date, we have done a good job in getting the balance right, particularly in the case of the five individuals whose names I have given to the House. I am sure that would be the intention of any future Minister for Finance, but Senators may be of the view that I would say this anyway. However, there might be unintended

consequences if we were to accept amendments Nos. 17 and 18. As a result, we do not propose to accept them.

Senator Sean D. Barrett: We are making progress. It took from 1922 to 2010 to recruit 39 economists. That is a rate of less than one every two years. In the 23 months since publication of the relevant report in 2010, we have recruited a further 60. I compliment the Minister for Finance on bringing the number up from 39 to 99. That is progress. The people concerned should, of course, possess the relevant expertise. I agree with the Minister of State that the five recruited prior to our dealing with this legislation are top class. Everybody acknowledges that fact. They all appeared before the Joint Committee on Finance, Public Expenditure and Reform and the members thereof who come from different sides of both Houses accepted their bonafides. It is critical that we find people with the necessary expertise. We need not just the 60 individuals who have been recruited, we also require additional and similarly qualified individuals for other spending Departments. Is there a health economist in the Department of Health? Is there anyone in the Department of Transport, Tourism and Sport who possesses expertise in economics? It was the position in respect of the latter that caused two people to write an article in a Sunday newspaper in which they stated contrarian views were required.

There are huge budgets at stake and they are being spent by a very small number of qualified individuals. Admittedly, we are moving in the right direction. I commend the Minister for Finance on more than doubling the number of suitably qualified staff in the 23 months since Mr. Wright published his report in December 2010. The improvements are commendable. Economics for amateurs got us into the current mess. However, we are not going to proceed further down that road. The Fiscal Advisory Council has a vital role to play in that regard. As indicated, I want the economists recruited by the State to provide advice to display the same professionalism as that shown by veterinarians, doctors and architects. This is an important matter and we need the level of expertise to which I refer. I commend the Minister for Finance on the improvements he has made through recruiting an additional 60 suitably qualified individuals into his Department. I hope similarly qualified individuals will be recruited into other major spending Departments in order that we will not repeat the mistakes of the past.

Deputy Brian Hayes: The Senator has highlighted a very important point, namely, that it is important to have economists not just in the Department of Finance but also in other high spending Departments. The Departments of Social Protection, Education and Skills and Health are responsible for 82% of all Government expenditure. As the Senator points out, it is crucial that these Departments have in their employ suitably qualified and competent staff. Many people who previously worked in the Department of Finance have gone on to enjoy very illustrious careers in other Departments. Much of their training, both in the area of economics and in more general matters relating to the Department, has been of assistance in the formulation of policy in the Departments to which they have transferred. I was obviously in opposition at the time, but there is anecdotal evidence that during the financial crisis it was not just the Department of Finance which tried to respond to the enormous difficulties which had arisen. Staff in other Departments who had previously worked in the Department of Finance and trained economists assisted in the general effort which was required at that stage. However, I take the Senator's point on the need to ensure it is not only the Department of Finance which requires suitably qualified staff. While progress has been made, there are gaps which must be highlighted.

Senator Michael D'Arcy: It is important to remember one caveat, namely, that where the political masters in power choose to ignore the advice offered, such advice becomes completely irrelevant.

Amendment, by leave, withdrawn.

Amendment No. 18 not moved.

Senator Sean D. Barrett: I move amendment No. 19:

In page 10, paragraph 1(4), line 18, to delete “6 months” and substitute “1 month”.

The Minister of State has impressed on us the importance of this body. In such circumstances, why leave positions vacant for six months? Let us bring it up to strength immediately when there is a vacancy. This is one of the many amendments I have proposed, but it is also one of the most important. If someone leaves or the chairman resigns, we should bring in a replacement quickly rather than waiting for half a year to do so. As the Minister of State indicated, circumstances can change rapidly. It was not the Government’s intention for the council to have four members instead of five for a lengthy period. That is the purpose of the amendment. It is important to ensure the team will not be a man short when it takes to the field.

Deputy Brian Hayes: I agree with the Senator. The team should not be a man or a woman short. The difficulty with the amendment is that it would remove the maximum stipulation of six months and reset it at one month. As the Minister for Finance has previously indicated, that is a very short period. Some reflection might be required across government in bringing forward a suitable candidate to replace someone who leaves the council. In addition, the chosen individual may need to consider whether he or she wants to serve on the council. The six month period proposed in the legislation would be the exception rather than the norm. It would be the intention of the Government and the Minister of Finance to make appointments in a shorter timeframe. As far as I am aware, it is solely a matter for the Minister to actually appoint replacements. However, I am sure he would want to engage in reflection with a number of Government colleagues on any person who might be put forward as a replacement. It is not his intention to take six months to fill a vacancy. Limiting the period to one month would create difficulties from the perspective of the Minister and his ministerial colleagues engaging in discussions. It would also give rise to problems for an individual being offered an appointment in the context of his or her having very limited time in which to decide whether to accept or decline such an offer. That is the rationale behind not accepting the amendment.

An Leas-Chathaoirleach: Is the amendment being pressed?

Senator Sean D. Barrett: No. Prior to Report Stage the Minister for Finance might consider reducing the period to three months. I accept that he should be in a position to survey the field of those suitable to fill vacancies. We must stress the importance of the council.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 20 and 21 are related and may discussed together, by agreement. Is that agreed? Agreed.

Senator Sean D. Barrett: I move amendment No. 20:

In page 15, paragraph 11(2), line 8, after “chairperson” to insert “and members”.

All of the members of the council are obliged to appear before the Joint Committee on Fi-

nance, Public Expenditure and Reform. That is both stimulating and useful and all of the members of the joint committee appreciate it. Why not proceed in the same way? The council is a collegiate body and, as the Minister of State indicated, its members are all eminently qualified.

The chairperson does not assert himself as chairperson. He might like to come along with all of his colleagues. Those of us on the Joint Committee on Finance, Public Expenditure and Reform like to see them all there. One would get a much better diversity of views and maybe even a little contrarianism, as the Minister of State mentioned. If it is a collegial body of equals, let us hear them all rather than create a different power structure that operates through the chairperson. A future chairperson might assume to speak on behalf of all the other members and we would never get to hear what those members had to say. That is the purpose of amendment No. 20. I will discuss No. 21 later.

Deputy Brian Hayes: As I understand it from colleagues, the arrangement proposed is standard. The chairperson is the chairperson of an organisation in the same way as the CEO is the CEO of an organisation, and that individual is invited before a committee. However, nothing precludes other members of the council from being there. Demanding that they all attend could present difficulties because some of them work in Washington or Paris and might not be able to attend at short notice. Perhaps they should come at short notice. The first point is that there is nothing to stop them from coming. I agree with the Senator that having a broad range of views from the council adds to the debate in the committee, but there is nothing to prevent all members from attending if they are requested to do so. If the view of the committee is that the chairperson and others should be available to come before the committee, I cannot foresee a circumstance in which the fiscal council would not accept that.

Senator Sean D. Barrett: I accept what the Minister of State has said, but the Chairman of the committee does not have to ask them and they do not have to come. If the existing wording stands then only the chairperson will appear. I do not know whether anyone will look back and say the Minister of State, Deputy Brian Hayes, said all the council members ought to appear even though the Bill states it is just the chairperson who must appear. I do not see him as a CEO. It is not a bureaucracy. The strength of the council is that it is a collection of people who have given their time and ideas on how to improve the economy. I see them as equals and the chairperson as *primus inter pares*. I do not like the all-powerful CEO model. In a world of ideas that does not work. It could be the fourth or fifth member of the council who gives the most ideas when the Oireachtas committee meets the council. Perhaps a reference to the “council” appearing before the committee rather than the “chairperson” might be considered.

Senator John Gilroy: Any council or committee making public utterances generally does so by means of an agreed position through the chairperson. It would be a recipe for chaos if we identified individual members who might express an individual opinion that is not representative of the Fiscal Council.

Deputy Brian Hayes: The view of the Minister for Finance, and *ipso facto* my view, is that we cannot accept amendment No. 20. It depends on the subject matter of the committee debate. With the greatest respect to committees, the point has been made by Senator Gilroy that frequently a view of a council or any body corporate is made through its chairperson, who makes-----

Senator John Gilroy: Public utterances.

Deputy Brian Hayes: Exactly. Public utterances come from the chairperson. I note that when the council issues its report it is usually the chairperson, Professor McHale, who speaks in public on its behalf and sets out the views of the council. It is a matter for the council to determine that; it is not a matter for Government or the Legislature to tell the council how to speak in public. There may well be occasions when, in the view of the council, all of its members in total, or a group of them if there is a specific area that requires discussion, should come before the committee. We do not propose to accept amendment No. 20. We have not discussed No. 21 yet.

An Leas-Chathaoirleach: They are being discussed together.

Senator Sean D. Barrett: The current practice is that all of the members come and they are all valued. It is an excellent council. The Minister of State, Deputy Alex White, was the previous Chairman of the committee and Deputy Ciarán Lynch is the current Chairman. They are valued, but I do not like routing knowledge through one person. It is a model which in education leads to all sorts of trouble. One gets the views of the boss and everyone else is in fear of him. All members are worthy of being heard.

On amendment No. 21, section 11(2) states: “The chairperson of the Fiscal Council shall, whenever requested to do so, account for the performance of the functions of the Fiscal Council.” That is the uninteresting bit. We would hear that the council rented offices from the ESRI, went to 24 meetings and spent so much in bars. We want to hear the views of council members on what is happening to the country. That is the reason I specifically wish to refer to how we are doing on fiscal stability. The performance of the Fiscal Council is an administrative exercise. We hope that it did not spend too much money out of the tea fund but we really want to know its assessment of the Department of Finance and how we are doing on policy. The fact that the chairperson must account for his own body is minor; it is what is happening in the macro-economy that interests us.

The Minister of State will say that is covered, but it seems to be the type of accountability that would relate to part of a county council. The job of the chairperson of the Fiscal Council is to advise the Government of a country being rescued by the IMF how to get back on the rails and how to run our affairs so that it never happens to us again. How he spends his own money or allocates his own time is the minor part - the uninteresting part. We want to hear his advice to either House of the Oireachtas on the attainment and retention of fiscal stability. The Bill is extremely narrow in referring only to the performance and functions of the Fiscal Council. The amendment is about the macroeconomy and, as it says in the title of the Bill, the delivery of fiscal responsibility.

Deputy Brian Hayes: I thank the Senator for tabling amendment No. 21. This point was raised on Committee Stage in the Dáil by Deputy Michael McGrath of Fianna Fáil. He put forward a similar proposal which required the Fiscal Council to provide an assessment of a policy proposal when requested to do so in writing by a committee of Dáil Éireann. The proposal was rejected by the Minister, Deputy Noonan, who said it would not be acceptable under the common principles as it could be seen as a threat to the independence of the council. One concern expressed to the Department by the Fiscal Council during the preparation of the legislation was the possibility that a Minister would allocate additional functions without additional resources. This concern was echoed by the troika. The Minister, Deputy Noonan, took that on board by ensuring that the functions of the Fiscal Council, as stated in the Bill, do not provide for additional functions to be given to the council. The allocation of additional functions will require

amending legislation which would ensure an opportunity to discuss appropriately matching resources. The same point applies to this amendment. I am sure the Senator does not intend this, but demanding that the council appear to discuss the attainment and retention of fiscal stability in front of any or all of the committees of the Oireachtas would be akin to giving the Oireachtas a blank cheque to demand its input on issues of fiscal stability for any policy and could put pressure on the council's performance of its essential duties.

The critical task we are asking the council to do in terms of the performance of its functions is set out in section 8. That is what we are asking it to do in accepting the legislation. Senator Barrett may be confusing this with another aspect of the provisions relating to the council's appearance before committees, as outlined in section 11 on page 14. This is to do with the appropriation of funds to an organisation, which is standard practice for any organisation funded by the Oireachtas for the performance of its duties. There might be some confusion as to what the position is in that regard. Reference to appearance before Oireachtas committees is a standard provision which appears in other Bills and provides for an agency such as the Fiscal Council to come before a committee to make sure it has used public funds appropriately. I do not think we should confuse that with the essential functions as set out in section 8 of the Bill, which the fiscal council independently carries out and on which it independently reports to the Government. For those reasons, we do not propose to accept the amendment.

I am sorry that I am rejecting the amendments, but the debate is useful in obtaining clarity on the role of the council.

An Leas-Chathaoirleach: Is amendment No. 20 being pressed?

Senator Sean D. Barrett: As the Official Report will show what was said and the Minister of State said that he expects all members to attend, it is not necessary to press the amendment. I would be most disappointed if anybody used it to prevent the members from attending.

Deputy Brian Hayes: The Senator's interpretation of that is the same as that of the Government.

Senator Sean D. Barrett: Thank you.

Amendment, by leave, withdrawn.

Senator Sean D. Barrett: I move amendment No. 21:

In page 15, paragraph 11, between lines 10 and 11, to insert the following:

“(3) The chairperson and members of the Fiscal Council shall, whenever requested to do so, advise a Committee of either House of the Oireachtas of the attainment and retention of fiscal stability.”.

I will press this amendment because we must discuss the macroeconomic issues. We have the expertise here.

Amendment put and declared lost.

Schedule agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Minister of State at the Department of Finance (Deputy Brian Hayes): I thank the Senators for their very constructive engagement on the Bill. The Minister for Finance was in the House during the Second Stage debate. I thank Senators for allowing the Bill to progress this evening by agreeing to take all Stages. I thank all of the Senators who contributed and in particular those who tabled insightful amendments. We are entering a new era of fiscal responsibility. There is a clear need to have an independent authority vetting the work of government and independently assessing how we are doing. It is important to note that in order to ratify the stability treaty, we must fulfil the fundamental condition of enacting this legislation. The immediate concern is that the Bill is passed by both Houses and is then signed by the President. Ireland will then be able to sign the stability treaty. I again thank Senators for their co-operation.

Senator Sean D. Barrett: I thank the Minister. The fiscal council that has been assembled is a very good body. Many institutions, people and bodies got us into this trouble and none should be exempt from scrutiny by the fiscal council. We are spending much time and effort, not least on the Government benches, trying to rectify these problems. We must ensure it never happens again. The real moral hazard is that those who caused these problems escape. There is no point in the banks saying that moral hazard is caused by people who borrowed too much to buy a house. Those who got this country into such dire straits will now face independent scrutiny, which is to be welcomed. I commend the Minister on bringing the Bill through all Stages in the House.

Question put and declared carried.

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

Senator Michael D'Arcy: At 10.30 a.m. tomorrow.

Adjournment Matters

Road Network

Senator Paschal Mooney: Cuirim fáilte den Aire Stáit. I welcome the Minister of State to the House. I am very pleased that the Minister of State, Deputy Ring, is dealing with this matter.

I am a member of the Joint Committee on Transport and Communications. Last week the committee heard a submission from Mr. Fred Barry, the chief executive of the National Roads Authority, and its officials. In the course of the exchanges with all members relating to various roads projects, either up and running, dormant or planned, I asked a number of specific questions relating to the N16 in Leitrim. The Minister of State will be familiar with this road because it is a link from Galway through Mayo, Sligo, Enniskillen and on to Belfast. The N16 was originally on the national league study published with the first NRA report in 1999. At that

time it was indicated that it could be 2018 before any money would be spent on it. A further national transport plan for 2020 was published in 2005 which also set out various aspirations relating to the development of our road network. Over the past years there has been a growth in the development of our road network which has proved to be very important for economic renewal. However, the N16 has languished. Very little money has been spent on it. It should be noted that it is a major trading route as well as a tourism route because it links the major centres of Galway through Mayo, Sligo and on to the North.

I asked Mr. Barry about the plans for the N16 and where it figured on the list. He conceded that the state of the road was unacceptable. He also agreed that it had been bounced around over the various studies, aspirations and policy decisions of the past 15 years. More significant, I asked him about the position of the N16 on a list of priority projects - if such a list of priorities existed. I assumed, naively, that a list existed. I asked a rather innocent question as to the position of the N16 on the list. Mr. Barry replied that there was no list. I said it seemed strange that the NRA does not have a list of priorities for roads projects, notwithstanding the Government is tied for money and capital projects are limited. For example, the Gort to Tuam road is proceeding and this is to be welcomed. Mr. Barry justified the information on the basis that because the NRA had no money, there was not much point in having a list. I decided the best action was to ask the Minister if his Department had a list. How does the process work? What would be the position of any road - not just the N16 - be it in Mayo or Leitrim, on the list of priorities? Is it a case that a project is proceeded with around budget time or when there is a bit of money in the coffers? How does the NRA decide? No more than a prisoner who wants to know his release date, I would like to have some idea of whether it will be ten, 15 or 20 years. I asked Mr. Barry the question in an attempt to elicit a response. I did not anticipate that the Minister or his Department would say that the N16 is No. 5 on the list and it will be completed by 2020. However, I am hoping there might be some bit of information from a Department that is not, I have to say, traditionally known for giving away too many secrets, no matter who is in government.

An Leas-Chathaoirleach: I remind both sides that there is a time limit on contributions.

Minister of State at the Department of Tourism, Culture and Sport (Deputy Michael Ring): I am not sure I have all the answers but I will give the answer which the Department has supplied.

Senator Paschal Mooney: The Minister of State knows where I am coming from.

Deputy Michael Ring: I am taking this Adjournment matter on behalf of my colleague, Deputy Varadkar, and I thank the Senator for the opportunity to address this issue in the House.

The Minister for Transport, Tourism and Sport has responsibility for overall policy and funding in respect of the national roads programme. However, the planning, design and implementation of individual national roads projects are matters for the National Roads Authority, the Roads Acts 1993 to 2007, in conjunction with the local authorities concerned. The Government's infrastructure and capital investment framework formed the basis for a new national development plan for the period 2012 to 2016. There was ongoing discussion with the National Roads Authority during the preparation of this investment framework. The framework recognises that the key challenge in current financial circumstances is to try to ensure adequate maintenance of the national road network in order to protect the value of previous investments and that it is only possible to proceed with a very limited number of road improvement projects over the period to 2016. The investment framework acknowledges that, given the scale and

cost of future motorway and high quality dual carriageway projects, it would not be feasible to fund them directly from Exchequer resources. Rather, it was intended to fund them by means of a public private partnership using private money to build and maintain these roads, to be repaid back by the Exchequer over an extended period in the form of availability payments. In this context, provision was made for funding the Exchequer element of the N11 Arklow-Rathnew and Newlands Cross PPP scheme within the 2012 to 2016 capital budget.

It was indicated that while the private funding market was very challenging intensive efforts were being made to access funding for PPP projects with a view to the National Roads Authority progressing projects such as the Gort-Tuam PPP and the New Ross-Enniscorthy PPP. In July this year, as part of the Government's infrastructure stimulus package, the Minister for Public Expenditure and Reform announced that €850 million would be invested in upgrading the national motorway and primary route network. As part of this plan, which will be funded in part from the proposed sale of State assets, three road PPP projects have been identified for funding. These projects are, the N17-N18 Gort Tuam road, the M11 Gorey-Enniscorthy road and the N25 New Ross bypass. These projects, together with the N11 Arklow-Rathnew road and N7 Newlands Cross scheme, had been identified by the NRA some time ago as suitable for progression as PPPs. These are projects where there is considerable certainty regarding the timeframe for implementation as all the lands required have been secured.

One further priority transport project is the Galway city bypass. This is a 12 km orbital route for Galway city linking with the M6 major interurban route to Dublin. The project is currently on hold pending the outcome of legal proceedings. Depending on the outcome of those proceedings it is hoped to progress it as an additional PPP project. Unfortunately, financial constraints mean that other worthwhile projects cannot go ahead in the short to medium term with progress very much dependent on the availability of funds after 2016.

Senator Paschal Mooney: I thank the Minister of State for the reply. However, it is obvious that a project scheme is in place for the period 2012 to 2016. The Minister of State has outlined a number of these projects and has referred to the severe constraints on the public budget. In the context of the 2012 to 2016 capital budget, is Government planning to confine itself to the projects as outlined and only if they are PPP projects? Could projects such as the N16 road project be the subject of a PPP in the future? I do not ask the Minister of State to outline how the system works but how road projects are selected for PPPs? Is a commercial decision taken by the private partners who see merit in it or does the Government decide on the basis of priorities around the country? I am trying to figure it out in the context of the N16 road project.

Deputy Michael Ring: PPPs are simple. Business people are prepared to invest in them provided they believe they can generate a return on their money. In the case of the stimulus budget announced by the Government a number of weeks ago, it is hoped some State assets will be sold. The Senator has mentioned a specific project. Everything depends on the state of the country's finances. We can criticise what happened during the Celtic tiger era for many reasons, but one good thing that emerged was the road infrastructure provided. There can be many criticisms, but that is one positive aspect. PPPs are about investors who will only go where they will make money. They are beginning to come back and people are beginning to have more confidence in the country. We saw this in the funding generated from the auction of 4G mobile phone licences last week. The Government expected to generate less money. This shows that the shoots are emerging and that things are looking a little better. There is a little confidence in the country and everything boils down to growth. The more money there is in the economy, the more opportunities we will have to allocate funding for road projects. The Department is

20 November 2012

committed to the N17-N18 Gort-Tuam and the M11 Gorey-Enniscorthy road projects and the N25 New Ross bypass project and I hope they will commence. The Galway project depends on planning, but we hope to continue with it. Other projects are in the pipeline, but they all depend on the provision of funding.

The Senator and I are from rural constituencies. The big issue for everybody is that of road maintenance. We need to ensure sufficient funding is available for this task because there is no point in destroying the good roads we have. We must maintain them and ensure people have proper roads on which to drive.

Commission of Inquiry

Senator John Kelly: I welcome the Minister of State, for whom I have great respect. I acknowledge that this matter does not fall within his area of expertise and that he is taking it on behalf of the Minister for Justice and Equality. However, I am disappointed the Minister is not present because he is familiar with the case which has been ongoing for 28 years. It is a serious issue that needs to be resolved, as reputations must be restored. The Minister is a man of integrity and honesty and I would like him to address the case of the brutal murder in 1985 of Fr. Niall Molloy, to which we must bring closure, as the family requires it.

Fr. Molloy lost his life and reputation by attending a wedding in Clara, County Offaly. He was a Roscommon man whom everybody knew, loved and respected. He was Roscommon Man of the Year in 1985. The case still leaves too many unanswered questions 28 years later and the Molloy family deserves justice. Apparently, a senior Fianna Fáil Minister was in attendance at the wedding and a post mortem certificate was signed afterwards by a doctor who did not exist. The judge who heard the case had a clear conflict of interest, as he was a friend of the accused.

An Leas-Chathaoirleach: The Senator needs to be careful.

Senator John Kelly: This is all on public record.

An Leas-Chathaoirleach: I do not want the Member to abuse parliamentary privilege in this House to impugn anyone.

Senator John Kelly: I have not mentioned anybody's name.

An Leas-Chathaoirleach: The wording used by the Senator makes it easy to identify them.

Senator John Kelly: This is all on public record.

An Leas-Chathaoirleach: I am putting the Senator on notice that he should not abuse the privilege afforded by the House.

Senator John Kelly: I am trying not to.

An Leas-Chathaoirleach: I think the Senator is trying to.

Senator John Kelly: I most certainly am not.

An Leas-Chathaoirleach: The Senator should be careful. I am in a difficult position.

Senator John Kelly: If I was trying to do so, I would mention names. I am purposely not mentioning them.

An Leas-Chathaoirleach: Sometimes by narrowing it down to certain individuals, one does not have to mention names. The Senator should be careful because I do not want to have the House impugned.

Senator John Kelly: Thank you, a Leas-Chathaoirleach.

During the trial a senior medical professional was asked if it was possible that Fr. Niall Molloy could have died of a heart attack. When he said “Yes”, the judge directed that the jury be dismissed and found the accused not guilty of manslaughter. There have since been damning statements by Circuit Court judges who were critical of the fact that the judge had taken the case. Senior gardaí have also been critical of the Garda murder investigation. A prominent surgeon who attended the wedding said his life was in turmoil having witnessed the murder and that he could not live with himself. He died a few weeks later at the age of 50. Other gardaí in recent times have come out in support of undertaking another investigation. The Catholic Church wants the case to be reopened. Files relating to the murder were robbed by Martin Cahill from the Office of the Director of Public Prosecutions during the investigation. Veronica Guerin’s home was shot at when she raised her head about the case. Paul Williams wrote a book entitled, *Bedfellows*, in which he chronicled what had happened. To date, nobody has challenged anything written in the book. Apart from the Garda inquiry by the cold case squad which, apparently, has concluded, according to the latest edition of *The Sunday Times*, and found there was no cover up, I have given 12 good reasons an independent commission of investigation should be set up.

Prior to the general election, both Fine Gael and the Labour Party vowed that if they got into power, an investigation into the death of Fr. Molloy would be a priority. The credibility of the institutions of the State is at stake and there is only one way to restore confidence in them. I would like to think the Minister will not shatter public confidence in our institutions by failing to sanction an independent commission of inquiry. The Molloy family, the friends and neighbours of Fr. Molloy and the people of the country deserve it. As Shakespeare said, “Something is rotten in the State of Denmark”. If he was in Ireland in the mid-1980s, Denmark would have been off the hook.

Deputy Michael Ring: I thank the Senator for raising this matter which I am taking on behalf of the Minister for Justice and Equality who is unable to be present because of other business. However, he is fully aware of the concerns expressed about the death of Fr. Niall Molloy and sympathises greatly with the Molloy family.

Fr. Molloy’s death was the subject of an investigation by An Garda Síochána which resulted in the submission of an investigation file to the law officers who directed that a person be charged with manslaughter and assault occasioning actual bodily harm. At the subsequent trial, in June 1986, directions to acquit were given by the judge. The circumstances of Fr. Molloy’s death gave rise to considerable public concern at the time and the Minister appreciates that the family has sought answers ever since as to how its well loved relative met his death. I am sure Senators will join me in also expressing sympathy to other families during the years whose loved ones were killed and where the perpetrators were never brought to justice.

Most recently the concerns raised surrounding the death of Fr. Molloy found expression in

the publication of a newspaper article in October 2010, accompanied by strong representations made by the family. It is important that we acknowledge, in particular, the journalistic work of Ms Gemma O'Doherty in unearthing information on the case for the *Irish Independent*. On foot of this development, the Garda Commissioner arranged for a detective superintendent to meet Ms O'Doherty, as the author of the article, as well as family members. The purpose of this was to facilitate an assessment of whether there was any evidence that was not available to the original investigation team and whether further investigation was required in the case. Shortly after the Minister's appointment, he inquired into the steps being taken by An Garda Síochána and was advised of the position. He has at all times emphasised the importance of all relevant matters being thoroughly examined and investigated. This examination is ongoing and the Minister is receiving regular updates from the Commissioner. The Garda authorities have indicated that during the examination additional information was provided to the investigating gardaí identifying further lines of inquiry which have had to be followed up. The Garda Commissioner has assured the Minister that each and every one of these lines of inquiry is being, or will be, pursued. The Minister also understands that the officers carrying out the examination are continuing to keep Fr. Molloy's family members updated on progress.

The Minister is well aware of the many issues of concern raised in the public domain surrounding the circumstances of Fr. Molloy's death and the context in which some form of inquiry has been considered desirable, but what needs to be considered first and foremost is that the matters at the heart of the Garda examination relate to potential criminal liability and, in that context, possible charges. It is important, therefore, that nothing is said or done which could prejudice or be seen to prejudice criminal proceedings. Moreover, in any case in which criminal behaviour is suspected, it is only through a Garda investigation and, where evidence of criminal wrongdoing is available, through the submission of a file by the Garda to the Director of Public Prosecutions that persons can be brought fully to account before the courts. This cannot be done by a commission of investigation, through journalistic inquiries or by any other type of review, no matter how thorough or independent.

The best form of justice for the Molloy family would be for anyone who has criminal liability in his tragic death to be brought to account through facing charges. In the Minister's view, it would be deeply inappropriate to do anything which could prejudice the possibility of that happening. It is also of crucial importance that the Garda receives the fullest co-operation from any individual who can provide information of relevance to the inquiries being conducted. Whatever questions there may be about the original investigation, people should not prejudge the outcome of the current Garda examination. That examination, in the Minister's view, must be allowed to proceed unhindered, and he has been assured by the Garda Commissioner that all relevant evidence will be fully pursued, wherever it may lead. The House will appreciate that ultimately a criminal prosecution must be based on hard evidence, not rumour, speculation or conjecture. The Garda examination has not been completed and, accordingly, any media reports of its findings are, of their nature, speculative.

I would like to make clear that the Minister's commitment to reviewing the situation when he receives a final report from the Garda Commissioner remains firmly in place. Against that background, I hope the House can accept that we all share the desire to see justice done as much as possible in this case. I have tried to set out why, in the first instance, the best chance of achieving this lies with allowing the current Garda examination to proceed.

An Leas-Chathaoirleach: The Senator should be conscious that the Minister of State is not the Minister responsible when posing questions.

Senator John Kelly: I do not have questions. I appreciate that the Minister of State is substituting for the Minister for Justice and Equality. Perhaps the reply was written last Friday because *The Sunday Times* this week clearly stated that the Garda investigation had concluded and no evidence of a cover-up had been found. Today the Molloy family wrote to the Garda Commissioner asking him to remove all of the members of the serious crime review team from the investigation. That is why I believe the Minister of State's response was written last Friday and is not up to date. The Minister said that if he was in power, he would give this investigation priority. No matter how many times other Members, the Molloy family and I are knocked back, we will still seek justice for Fr. Niall Molloy.

Deputy Michael Ring: I will pass the Senator's remarks on to the Minister. He asked me to stress that he is conscious of the distress this is causing the relatives of Fr. Molloy.

Primary Care Centres

Senator Colm Burke: This matter relates to the primary care centre in Knocknaheeny. My understanding is that the centre has been completed for more than four years but is not occupied. According to the agenda of Cork City Council, it agreed to transfer the land with the primary care centre on it. I am not sure why it has taken four years for that transfer to take place. A primary care centre is needed in the area. There are more than 1,150 local authority houses in the immediate area, along with a significant catchment of private housing. It is an important area in which to locate a primary care centre. I seek an update on why it has not opened and when it is likely to open.

Minister of State at the Department of Health (Deputy Alex White): I thank the Senator for raising this important issue. The key objective of the primary care strategy is to develop services in the community that will give people direct access to integrated multidisciplinary teams of general practitioners, nurses, physiotherapists, occupational therapists and members of other health care disciplines. This is central to this Government's objective to deliver a high-quality, integrated and cost-effective health system. The Southern Health Board, SHB, entered into an arrangement with Cork City Council in late 2004 to provide accommodation for primary care services at a new community development the council was planning to build at Harbour View Road, Knocknaheeny. The intention at the time was to locate a number of key core primary care services in the new facility. The SHB entered into this arrangement prior to the development of the current strategy for the delivery of primary care infrastructure. The building is deemed by the HSE to be considerably smaller than what is required in the context of the current strategy.

The facility at Harbour View Road, Knocknaheeny, is one of four blocks on a community service campus, which was constructed by the city council on its property. The council, at its November 2012 meeting, approved a proposal to lease the property to the HSE. The council will provide the HSE with the appropriate support documentation, including title, statutory permissions relating to planning and fire regulations and completion certificates, which will allow the proposed lease to be considered by the HSE property committee within the next four weeks in line with HSE property approval protocols. Until this process is completed, the HSE will not be in a position to begin to deliver services from the leased building.

The HSE's capital plan 2012-2016 contains provision for the delivery of a primary care centre at St. Mary's Orthopaedic Hospital campus. The leased facility will be used to accom-

20 November 2012

moderate primary care staff prior to the permanent move to the new primary care centre to be constructed at the St. Mary's campus. It is envisaged that following the completion of the new HSE primary care centre at St. Mary's, the leased building could be used to accommodate services that complement health care services to be delivered from the campus.

Senator Colm Burke: I am surprised by this response. I have no information about when it is proposed to build the primary care unit on the St. Mary's campus and I am not aware of the submission of plans. I will table another Adjournment matter to deal with that issue because the centre to which I refer was completed more than four years ago. The Minister of State said the matter goes back to 2004. It is now eight years later and the primary care centre has been there for more than four years. It is only in the past two weeks that the legal transaction and approval by the city council to transfer the building to the HSE occurred.

7 o'clock

Why has it taken four years for one statutory agency to transfer this property to another? It does not make sense and a significant amount of time has been lost. I also need clarification as to when it is proposed to deal with St. Mary's Orthopaedic Hospital. Will this take another eight years while in the meantime services will not be provided?

Several consultants from Cork University Hospital, CUH, are providing paediatric services in Knocknaheeny almost on a voluntary basis every week. It is proving to be successful in the area and assists parents in not having to travel to CUH or other hospitals for treatments.

Deputy Alex White: I thank Senator Burke for raising this issue. I would be more than happy to give him more information on the proposals for the St. Mary's campus. I can only share his frustration over the delay that has occurred. I have no information as to the reason for this delay. It is the Government's intention that these projects, however they are delivered, should be expedited. It is a crucial element of the Government's health strategy. Delays can arise whether for legal or title reasons but the length of time in this case is considerable. I take note of the work being done by the consultants at the community facility in Knocknaheeny, a welcome development. If I can be of any further assistance with the St. Mary's project or other aspects of this development, I would be more than happy to assist the Senator.

The Seanad adjourned at 7.05 p.m. until 10.30 a.m. on Wednesday, 21 November 2012.