



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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# SEANAD ÉIREANN

*Déardaoin, 30 Bealtaine 2013*

*Thursday, 30 May 2013*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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## **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator Mary Moran that, on the motion for the Adjournment of the House today, she proposes to raise the following matter:

The need for the Minister for Health to address the lack of residential services for people with a disability in urgent need of residential care (details supplied). I regard the matter raised by the Senator Moran as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

## **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 1, motion re draft Planning and Development (Amendment) Regulations 2013, pursuant to section 262 of the Planning and Development Act, 2000, referral to Joint Committee of the Environment, Culture and the Gaeltacht, to be taken on the conclusion of the Order of Business, without debate; No. 2, statements on matters arising from the RTE programme on early child care standards, to be taken at 12.15 p.m. and to conclude at 1.15 p.m., with the contribution of all Senators not to exceed five minutes each and the Minister to be called on to reply to the debate no later than 1.10 p.m.; No. 3, Financial Emergency Measures in the Public Interest Bill 2013, all Stages, with Second Stage to be taken at 2 p.m. and to conclude no later than 4.30 p.m., with the contribution of group spokespersons not to exceed eight minutes, that of all other Senators not to exceed five minutes and with the Minister to be called on to reply to the debate no later than 4.20 p.m. Committee Stage will be taken at 5.30 p.m. and the business will be interrupted for a period, if necessary, to take Report and Final Stages of the Bill.

**Senator Paschal Mooney:** I welcome the fact that the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, will be coming to the House today and I thank the Leader

for arranging this important debate. However, there is a real sense of groundhog day about the Order of Business and our response on this side of the House in that, once again, a guillotine will be imposed in the sense that all Stages ---

**Senator Paul Coghlan:** There is no guillotine.

**Senator Paschal Mooney:** All Stages will be taken which amounts to the same thing.

**Senator Paul Coghlan:** Senator Mooney can stay here all night if he wishes.

**Senator Paschal Mooney:** There was a major row in the other House yesterday, resulting in the suspension of a Member after a similar argument was put forward about the lack of time for debate. If ever there was an argument for retaining this House, it is contained in this Government decision in both Houses. This Government is riding roughshod over the democratic institutions of this State. There is no question about that. The unprecedented majority enjoyed by this Government means that it thinks it can do anything it likes, when it likes and how it likes. Here is a perfect example of that. As a result, I will be tabling an amendment to the Order of Business, opposing the proposal that all Stages of this Bill be taken today. That does not normally happen and the Leader has, on occasions, lauded himself and his party for ensuring that it does not engage in this type of practice but here is a perfect example of it.

In the context of the Minister for Children and Youth Affairs, Deputy Fitzgerald, coming to the House today, this issue is yet another example of what seems to be an increasingly dysfunctional Government. It is not just a question of this Minister but also of other Departments that are engaged in this area. For example, the HSE seems to be operating as some sort of a maverick organisation without any political oversight whatsoever. If one reads any of today's newspaper reports or listens to any of the media commentary on what has happened as a result of the fallout from the "Prime Time Investigates" programme, one can see that lots of promises have been made over the last two and a half years with regard to child care but very little has happened. I must say that Deputy Fitzgerald is a wonderful person with whom I had the pleasure and honour of serving in this House previously. I am not casting any aspersions on her personally. However, there are serious policy questions surrounding what is happening and I hope we will have an opportunity to tease those out later today.

I ask the Leader to convey our sense of frustration about the recent comments made by the US Senator Carl Levin, where he accused this country of being a tax haven.

This came about as a result of committee hearings which were attended by the chief executive officer of Apple, Tim Cook. Mr. Cook went on record yesterday in California as saying no special deal on tax was done between Apple and the Government when the company set up here in the early 1980s, yet, astonishingly, despite the talk by the Government parties and the Taoiseach about trying to make this the best little country in the world to do business, not one e-mail was sent or telephone call was made by the Irish ambassador to the US to Senator Levin. This has been going on for almost two weeks. Are the telephones not working in Government Buildings? Can people not contact Mr. Levin's office and disabuse of him of the notion that this country is a tax haven?

I encourage everyone to engage in the initiative taken by the Minister for Arts, Heritage and the Gaeltacht in the past week, in association with the National Library, to encourage the public to submit memorabilia and describe their memories of the visit of former US President John F. Kennedy to Ireland as we commemorate its 50th anniversary. The Leader hails from

the neighbouring county to that of the president's ancestors. This is a wonderful initiative and a website has been set up. People can submit their memorabilia or forward their memories of the event to the National Library.

**An Cathaoirleach:** I would like to clarify the position on the amendment. There is no need to propose an amendment because Members can decide to call a division on each Stage of the Bill. Committee Stage is ordered to be taken at 5.30 p.m. Is the Deputy proposing an amendment?

**Senator Paschal Mooney:** No.

**Senator Ivana Bacik:** I am glad the Minister for Children and Youth Affairs will be in the House later. Colleagues, particularly Senator van Turnhout, sought this debate yesterday and I am glad we have been able to arrange a debate at such short notice on the pressing issue of child care standards following the broadcast of the "Prime Time" programme last Tuesday night. Colleagues will appreciate the opportunity to debate the best ways to ensure adequate supervision, inspection and monitoring of standards in child care facilities with the Minister. As I said yesterday on the Order of Business and as the Minister said in the Dáil, a Garda investigation as well as a HSE investigation are under way into the allegations that were made and the serious matters that arose in the documentary about the crèches inspected. Clearly, there are broader issues, which we will debate earlier.

I welcome the announcement earlier this week of the new site for the National Maternity Hospital by Dr. Rhona Mahony, the master of the hospital. The hospital, which is currently based at Holles Street, will move to a purpose-built facility on the St. Vincent's Hospital campus. It is welcome that we will have such greatly improved facilities to look after the health of women in pregnancy, mothers and their babies. Coupled with the new children's hospital to be built on the St. James's Hospital campus, we will experience a great improvement in the coming years in health services for women and children. The State will retain the site on Holles Street, which is also welcome.

I congratulate Trinity College Dublin on its hosting of the European Space Expo, which commences next week. Anyone who visits Front Square on the campus today or over the coming days will be greeted by an enormous exhibition centre. Exciting talks and exhibitions will take place within the Space Expo dome, including events for children. I encourage colleagues with spare time to visit it.

**Senator David Norris:** I am not as susceptible to the Cathaoirleach's blandishments as Senator Mooney is. I propose an amendment to the Order of Business because I do not want to take all Stages of this Bill and I do not give a damn what agreements were reached before now. I feel strongly about this because I was listening to the radio in my car on my way in and I heard how this Bill had been stuffed through the Dáil and would sail through the Seanad. It is a responsibility of ours to give it as rough a passage as possible. Let us make the weather a little less clement for the Government parties regarding this utterly disgraceful legislation, under which they presume to take onto themselves the right to tear up agreements and the right to punish individual members of unions who dared to exercise their democratic vote. What is happening to democracy in this country?

There is an increasing concentration of power in the Government and it is treating not only this House but also the Dáil as a rubber stamp. We learned the other day that the Taoiseach has

commissioned a little mini-rubber-stamp for his little mini-committee, which will be a mini-Seanad or yellow-pack version of the House. This was the brainchild of some anonymous public servant. Will the Leader give the House the name of this person who is apparently in the ruling golden circle? There will not be much opposition from that shower if they ever take over the functions of this country. Thirty amendments were ruled out of order yesterday in the Dáil. Every type of ridiculous excuse is being found to throw out amendments and stamp out discussion. It is up to this House to stand firm and at least make sure there is a degree of protest against these violations of democracy.

I refer to the issue of water metering. A motion on planning and regulation will be put to the House without debate. This is one of the serious issues that the passage of the legislation creating Irish Water has brought to the fore. When water services were co-ordinated through local authorities such as Dublin City Council, there were clear responsibilities in planning to take into account the question of providing water resources and so on. I reiterate what I said when the Bill was going through the House. Could we at least have a semblance of joined-up thinking from the Government parties? They have given this function to Bord Gáis, which is a bad idea, but at least it is a utility. Will Bord Gáis, for God's sake, not have a little sense and install its own remote readable meters as well? Why can electricity, water and gas not all be done at the same time? Let us do something adult and mature for once.

I wish to raise the issue of the Royal College of Surgeons and Bahrain. It is quite extraordinary that there has not been a visit by the medical-----

**An Cathaoirleach:** The Senator is over time.

**Senator David Norris:** I am sorry. People are being given Irish degrees which have never been validated by the Medical Council, and they may be required to supervise torture. We should be careful before we validate degrees for doctors who may be coerced into torturing civilian protestors.

**An Cathaoirleach:** I wish to clarify the Senator's amendment to the Order of Business. The Chair puts a question after each Stage of a Bill asking when it is proposed to take the next Stage. It is up to the House then when the next Stage is taken. I would like the Senator to clarify his proposal relating to the Order of Business.

**Senator David Norris:** My proposal is that we do not accept the Leader's suggestion to take all Stages today no matter what happens. I suggest we take only Committee Stage today.

**An Cathaoirleach:** The Senator can decide that following Second Stage.

**Senator David Norris:** I would like to decide it now, if the Cathaoirleach does not mind.

**An Cathaoirleach:** That question is not before the House now.

**Senator David Norris:** It is now, because I have put it before the House.

**An Cathaoirleach:** Only the Leader can put such a question.

**Senator David Norris:** I am the new leader-----

**An Cathaoirleach:** I understand that, but the Senator is not the Government Leader. Committee Stage has been ordered for 5.30 p.m.

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**Senator David Norris:** And we have been told the remaining Stages will be taken as well. I am saying only Committee Stage should be taken today.

**Senator Maurice Cummins:** The Senator is objecting to the Order of Business.

**Senator David Norris:** No; I am saying we should only take Committee Stage of this Bill today.

**An Cathaoirleach:** The Senator can call a division on that at the conclusion of Committee Stage.

**Senator David Norris:** I prefer to decide it now. We have been told by the Leader that the order of the House is that we take all Stages today. I do not agree with the Order of Business; I want to take Committee Stage only. I am sure my amendment is in order.

**Senator Paul Coghlan:** Compliments are due again to the Minister for Agriculture, Food and the Marine this morning regarding the negotiations on the Common Fisheries Policy following the recent negotiations on the Common Agricultural Policy and his handling of the fodder crisis. I wish him continued success.

I also commend the Minister for Finance on what has been achieved regarding the amendments to the maturity dates for our borrowings. What he is achieving at ECOFIN is huge and I wish him continued success.

I am concerned about issue of VRT rebates on used cars which are exported on a weekly basis. I gather this is a very lucrative business. Senators will all have seen the advertisement stating, "We buy used cars for cash". I have tried to establish, unsuccessfully thus far, how much the State is losing because of the scheme. I am awaiting a reply from the Revenue Commissioners. I spoke to the chairman yesterday at a meeting of the Joint Committee on Finance, Public Expenditure and Reform and, please God, I will receive a reply. Hundreds of cars are leaving the country weekly, destined for Africa or another destination. We are not concerned about this because the cars may constitute an export product, but I am concerned about the size of the rebates the State is paying under the scheme. I suspect that the scheme has been designed to get money out of the State. I suspect it may be something of a scam, but I do not know and I would like to know more about it. Perhaps a debate on this issue could be dovetailed with another on a financial matter.

**Senator Denis O'Donovan:** I call for an urgent debate on the fishing industry. I propose an amendment to the Order of Business to invite to the House the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, if he is back in the State, in order that he might explain to us what he has done in Europe and how he achieved it. He should outline the fundamental changes proposed. I heard him speak on "Morning Ireland" this morning. If one had no knowledge of the fishing industry, one would be impressed by the beautiful language used and the fact that the agreement is historic, etc. However, because I am involved with Senator Brian Ó Domhnaill in producing a new fisheries Bill and have been consulting people widely in west Cork and the rest of the south, and also County Donegal, I realise that the fishing organisations, which number five rather than six, have not been consulted by the Minister since Christmas. The initiative was driven by departmental officials. This morning I asked a man who has been involved in fishing for nearly 40 years – I believe he is distantly related to the Minister – about the proposals on discards. He says they are unworkable and will not achieve the desired effect. Another fisherman, to whom I spoke this morning after having rung him to see whether he had

been listening to the radio programme, says that, irrespective of the situation in Europe and circumstances in ten years, many people will have left the fishing industry in Ireland in the next five or six years because the laws are unworkable and the industry is overregulated, such that fishermen are finding it impossible to make a living.

It is extraordinary that the fishing organisations from County Donegal to County Cork - I have great respect for many of them - were not consulted. If this happened in the agriculture industry, the IFA, the ICOSA and other organisations would be up in arms. I am not raising this matter lightly; I am deeply concerned about the fishing industry which constitutes a minority grouping. There are not too many fishermen and the number is dwindling, but the industry is important. I call for an urgent debate, today if at all possible. If the Minister is back in Ireland, I ask that the Order of Business be amended. The Minister is extremely busy; I am not saying otherwise. We had an excellent Minister of State, Mr. Shane McEntee, who, unfortunately, passed away last year. It is regrettable that he has not been replaced because there has been an appalling lack of effort on the part of the Government. It is not that there are not enough candidates in the Labour Party or Fine Gael to fill the role. There are many Members waiting for the call. If a Minister of State could be appointed with specific authority to deal with the fishing industry, I would welcome it.

**Senator John Kelly:** I wish to raise the issue of postcodes. Formal consideration of the introduction of postcodes began in 2005. In September 2009 the then Minister for Communications, Energy and Natural Resources, Mr. Eamon Ryan, said postcodes would be introduced in 2011. It is now 2013 but nothing has happened. It is important that we improve the quality of delivery. More important, we need to facilitate the emergency services. By introducing postcodes, an out-of-hours GP service would be able to find a location very easily and simply that it simply could not find at present. Likewise, the ambulance service could find such a location. In Dublin it is regarded as a crime if an ambulance does not arrive at the scene of an accident within eight minutes, but we do not have that luxury in rural areas, where one might be lucky to get an ambulance in 45 minutes. Last week I followed an ambulance on my road out of the town. It stopped on two occasions to ask ladies who happened to be foreign for directions to its destination. It was looking for the soccer pitch, where an incident had happened. The drivers did not have a clue where they were going and this is why postcodes are vital. Will the Leader request the Minister for Communications, Energy and Natural Resources to make a statement on the matter?

**Senator David Cullinane:** I share Senator David Norris's concerns about how the Financial Emergency Measures in the Public Interest Bill was rushed and railroaded through the Dáil. It might be helpful if the Leader clarified how exactly the Bill will proceed through this House. I understand that while all Stages will be taken today, there will be a break between Stages and that we will be able to deal with all of the amendments and sit for as long as we need to finish the Bill. If that is the case, I support the Order of Business. I seek clarification from the Leader on that issue.

I warmly welcome the decision made by the Cabinet to establish technological universities, including one in the south east. It will be welcomed broadly across the five counties of the south east and also by Carlow and Waterford institutes of technology. For many years there has been a campaign for a university in the south east. The focus has often been on geography and critical mass which are obviously important, but a technological university based on innovation and research and development is exactly what the south east needs. I pay tribute to all those who work in Waterford Institute of Technology, especially those who work in the Telecom-

munications Software & Systems Group and ArcLabs. Fantastic, extraordinary research and development are being carried out in Waterford Institute of Technology. There have been many spin-off opportunities for job creation in the private sector. There was a job announcement in respect of the FeedHenry platform recently. The Leader and I were at a Telecommunications Software & Systems Group event recently where we saw at first hand the extraordinary research and development work carried out. In the context of the Cabinet having made its decision, it is important that we have a debate on the issue and that the Minister explain to us what exactly will be the role of the technological universities. What process will be involved in making them a reality for the three regions identified? I ask the Leader to arrange the debate as soon as possible.

**Senator Susan O’Keeffe:** I, too, welcome the new arrangements for the new clusters and the new technological universities, as announced this morning by the Minister for Education and Skills. I ask the Leader for an early debate because I am sure there will be much interest in this issue. Between the 21 institutions, universities and institutes of technology, there will be four clusters across the country, including two in Dublin-Leinster, one in the mid-west and west and one in the south. Let me clarify an article in *The Irish Times* today that suggests the IT Sligo bid for technological university status, with Letterkenny and Galway-Mayo institutes of technology, failed. In fact, no bid was actually made. Therefore, there has been no failure. If the three institutes of technology that are working together decide in the future to make a bid to become a technological university, the option will still be available to them. In the meantime, they will form part of the new cluster for the west and north-west. This, I hope, will allow expertise to be developed in the individual colleges and for the colleges to work together to avoid duplication in their various areas of expertise. The Minister’s announcement is welcome and we should have an early debate on it.

It is welcome that the Minister for Children and Youth Affairs will be present in the House today. Many issues are still being raised. I would like to highlight the continuing delay in police checks, not only for those who work in crèches but also for those working in many other areas. We should have a conversation about police checks and the lengthy and continuing delays. The delays cause problems for businesses, particularly crèches.

**Senator Labhrás Ó Murchú:** Last night in Dublin Castle the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, launched a new book entitled, *Freedom Within the Heart*, by Mark Mahon. It is on the life and times of the High King of Ireland Brian Ború.

*11 o’clock*

We will commemorate him next year. There are also plans to have a feature film made, starting next year. It would be good news for the film industry, Ireland and the morale of the Irish people. As we know, he was a very significant figure in Irish history and was also a cultured person who was a patron of the arts. He can be put in a context of unifying all the traditions on the island.

I welcome the decision by the marching bands of the loyalist tradition at a meeting in Derry yesterday to participate in the All-Ireland Fleadh Cheoil in Derry in August. They will march through the streets of Derry, shoulder to shoulder with bands of other traditions. It is not about politics or partisanship, rather, it is about having a common cause, namely, the musical heritage of Ireland. The decision did not make headlines, and perhaps that is good. Many such things are happening in the North. People are finding a place where they can work and co-operate

together and respect each other's traditions. I salute the loyalist bands for that because it was a major, as well as a very generous, decision.

**Senator Brian Ó Domhnaill:** I agree with Senator O'Donovan's call for a debate on the fishing industry and second his amendment to the Order of Business on the overnight developments at EU level on the Common Fisheries Policy. We require an update on it. While I generally welcome what was achieved at European level and the work of the Minister, much has been disguised under the banner of discards.

Much more significant issues face the industry apart from discards. The pelagic sector which fishes out of Castletownbere, Killybegs and Rossaveale, to a lesser extent, is very concerned that the discard issue is being flagged while other issues facing the industry are being ignored. The proposals contained in the CFP reform proposal in regard to discards are somewhat unworkable, given that the pelagic fleet is expected to introduce discards by January 2015. We need a rational debate.

I agree with Senator O'Donovan that there has been no consultation whatsoever with the fishing industry on discards. The pelagic sector is worth millions of euro to the Irish economy and supports the fish processing sector, but it has not been consulted on this issue. That is not right. Why has Minister, ahead of such important negotiations at European level, not negotiated with the fishing sector?

As Senator O'Donovan said, it would not happen in any other sector and should not happen in the fishing sector. We need a debate at an early opportunity with the Minister to discuss all of the technical details associated with the CFP review.

I refer to the two women in County Louth who are in hospital as a result of the cannabis they consumed. There is a drug epidemic in the country. Criminals are dealing in drugs up and down the country, and are pushing drugs very aggressively. The Garda does not have the resources to deal with this epidemic. We need to have a debate on drug abuse and the impact it is having on young people. It is a scourge on society. I ask the Minister for Justice and Equality to come to the House to discuss what he is doing about the issue.

**Senator Trevor Ó Clochartaigh:** Aontaím go bhfuil géarghá i ndáiríre le plé iomlán ar thionscal na hiascaireachta agus tá sé tábhachtach go ndéanfar sin i gcomhthéacs na gcomhráití faoin gComhbheartas Iascaireachta.

I agree that we need a debate on the fishing industry but it needs to be broader than the CFP. I agree with my colleagues who raised the issue. It would be good to get an update on it, but I do not know how practical that will be given that the negotiations concluded last night. We need to examine how quotas are being divided in the State. We have said a number of times that if quotas were rebalanced in a more equitable fashion we could create more employment along the coasts. I welcome the commitment from the Leader that he will try to bring the Minister to the House to have a full debate on the fisheries industry, and how we can keep it vibrant and bring more young people into it.

An issue arose yesterday at the Joint Committee on Education and Skills. A senior official said the value for money audit of small schools is complete and on the desk of the Minister for Education and Skills. It is the first time that has been stated officially. If that is the case, it is to be welcomed because we have waited for two years. It will have a huge impact on rural schools. I call on the Minister for Education and Skills to come to the House for a debate on

the future of rural schools.

The report should be published immediately in order that its recommendations and implications are taken on board in the run-up to the discussions on the budget. We do not want to have another budgetary decision made without having read the report in full and taken its serious budgetary implications on board in terms of the impact of changes to pupil-teacher ratios on rural schools, the loss of posts and the effect on the surrounding community. Such a debate would be very useful.

**Senator Michael Mullins:** I thank the Leader and the Minister for Children and Youth Affairs for agreeing to a debate at such short notice following the “Prime Time” programme on child care facilities. What we saw was disturbing, shocking and totally unacceptable. We saw poor practice and a dereliction of care, bordering on abuse. I am pleased that a comprehensive investigation is now under way by the HSE and the Garda.

We also need to acknowledge the many fine crèches that operate in communities around the country.

**An Cathaoirleach:** We will have statements on that issue later today.

**Senator Michael Mullins:** They are doing excellent work. We need to be vigilant. It is shocking and appalling that the inspectorate has been found to be so inadequate. We need legislation to be passed quickly to improve child care standards in the country. People are paying significant amounts of money to have their children taken care of on a daily basis. They need to know they are safe and are getting the best possible care, and that the regulations are in place to ensure that happens.

**Senator Terry Leyden:** Today is a significant day for our colleagues in county councils throughout the country. At 5 p.m. an announcement will be made on the Department of the Environment, Community and Local Government website regarding new constituencies. Many of our colleagues will be in great difficulty, given the reduction in the number of seats in Roscommon from 26 to 18. Leitrim and other counties will also be affected. The number of seats has increased in the eastern area. The demolition of cities like Waterford, Kilkenny and Limerick is a retrograde step. I wish them well in the redrawing of constituency boundaries.

I commend the Leader and Senator van Turnhout on calling for an immediate debate on the RTE “Prime Time Investigates” programme on 28 May on the specific crèches which were investigated, namely, Giraffe in Belarmine, Links in Abington and Little Harvard in Rathnew. RTE has done the State great service. It has been more effective in the investigation of these crèches than the Minister for Children and Youth Affairs.

**An Cathaoirleach:** We will have a debate on the issue.

**Senator Terry Leyden:** I appreciate that, but I want the opportunity to speak. I would be embarrassed if I were the Minister, in the HSE or investigating those organisations. It is so obvious-----

**An Cathaoirleach:** We are not having the debate now.

**Senator Terry Leyden:** We are not, but I wanted-----

**Senator David Norris:** The Senator is a member of a party which neglected the matter

over many years.

**Senator Terry Leyden:** It seems RTE is doing the work of the Department, and did an excellent job. I agree with colleagues, however, that there are many excellent crèches throughout the country. The only way the problems identified in the RTE programme will be solved is via providing for the continuous closed circuit television monitoring of staff.

**An Cathaoirleach:** The Senator will have an opportunity to make these points during the debate this afternoon.

**Senator Terry Leyden:** CCTV monitoring is the way to go, not to be broadcast into homes on a daily basis but rather to be kept as a record. It is the only way of ensuring this type of mistreatment does not recur.

**Senator Diarmuid Wilson:** I join colleagues who have called in recent weeks for a debate on the system of processing passports which comes within the remit of the Department of Foreign Affairs and Trade. In common with other public representatives, I have been inundated in recent months with queries from people who have discovered their passport is out of date or about to expire and are in a panic because they have flights booked to travel on holiday or business. Will the Leader ask the Department to put in place a system whereby people would be notified, either by e-mail or text message, within six months of the expiration of their passport? This would afford them ample opportunity to renew their passport. I pay tribute to the departmental officials who frequently assist us in facilitating the public in obtaining passports at short notice in cases of emergency. It would be helpful, however, if the Department would launch a media campaign to remind people to check the status of their passport. In addition, we should have a system, as I have suggested, whereby passport holders would be notified by electronic means that the renewal date is imminent.

I did not have an opportunity yesterday to welcome the announcement made by my namesake, the Northern Ireland Minister for Finance and Personnel, Mr. Sammy Wilson, of an allocation of €21 million for the construction of a bridge linking counties Louth and Down at Narrow Water. I pay tribute to everybody who campaigned for this initiative in the past 35 years, including the late Councillor Micheál Ó Domhnaill and sitting Councillor Peter Savage of Louth County Council, as well as Deputy Seamus Kirk and the former Deputy, Mr. Dermot Ahern. Several Members of this House were lauded yesterday for their efforts in this regard, including Senator Mary White. I take the opportunity to pay particular tribute to Senator Terry Brennan. He is the one man in the past 35 years-----

**An Cathaoirleach:** Senator Terry Brennan was congratulated on the Order of Business yesterday.

**Senator Diarmuid Wilson:** I did not have an opportunity to congratulate him.

**An Cathaoirleach:** The Senator can do so in the ante-room.

**Senator Diarmuid Wilson:** Senator Terry Brennan has persisted for 35 years in pushing for this project. I am delighted to see his aspiration become a reality. Well done to him.

**Senator Feargal Quinn:** The construction of a bridge at Narrow Water would not have happened 20 or even ten years ago. The allocation of such a significant sum for this purpose by the Northern Ireland Government is very welcome. I congratulate everybody who helped to

bring the project to fruition, especially Senator Terry Brennan.

In response to the point raised by Senator Diarmuid Wilson, I have always found the Passport Office to be very receptive, particularly where an individual has had a death in the family. The staff are very accommodating in such circumstances, not just in response to requests made by Oireachtas Members.

Will the Leader arrange a debate on third level education, including the proposals announced today for the linking of a number of colleges? We should take the opportunity to have our say in this regard before a final decision is made. The other day I expressed my concern at the increasing tendency on the part of institutes of technology to neglect manufacturing and technology in favour of more academic disciplines. We must have a combination of both. The proposal to link a number of colleges is worthy of debate in this House and I hope it will be accommodated in the coming weeks.

**Senator Fidelma Healy Eames:** I support Senator Feargal Quinn's call for a debate on third level education before the summer. I flagged this issue with the Leader two days ago. The proposed reorganisation of third level education is big news, involving the creation of three new technological universities. I bow to all those who have worked very hard in making the case for Waterford Institute of Technology. They are not quite over the line, but there is a plan in place to achieve their objective. The formation of regional clusters between universities and stronger institutes of technology will facilitate the development of centres of excellence which can offer enhanced student outcomes. That will allow us to punch harder as a country. At the same time, however, we must accept that it will not be possible to offer every possible course in every institution. We will have to give up something. I am the mother of a student who is sitting the leaving certificate examination next week. I would like my child's desired course to be available in Galway but that might not be possible in the future. We cannot have it every way. I congratulate the Cabinet on finally coming to a decision, after the many years during which the issue was kicked down the road. Likewise, I congratulate the Minister for Education and Skills, Deputy Ruairí Quinn, for bringing it to the fore. We have a great deal of important legislation to deal with before the summer recess, but I ask the Leader to prioritise a debate on this subject.

**Senator Ned O'Sullivan:** I was invited to attend a meeting with the membership of Kerry County Council earlier this week. The Kerry councillors, in common with their counterparts in local authorities throughout the country, have serious concerns about the savage cutbacks in housing grants. In County Kerry the allocation has been reduced by 53%. Councillors on all sides of the political divide in the county are working together in a positive way to encourage the Government to find alternative sources of funding to replace the lost allocation. One suggestion was that the cost of the coroner's service should revert to the Department of Justice and Equality. Members might be surprised to learn that the cost of this service is currently met by local authorities. In County Kerry, for instance, it is approximately €300,000 per year. That cost should more properly be met by the Department. Local authorities have nothing to do with coroners' inquests, yet they are footing the bill for the service. I ask the Leader to raise this matter with the Government with a view to effecting a better administration of the coroner's service. Any saving accruing to local authorities could provide badly needed funds to accommodate elderly people who are heavily dependent on housing grants in order to live in some degree of comfort.

**Senator Catherine Noone:** I urge the Minister to join the 29 member states of the European Union that have signed the Council of Europe convention on preventing and combating

violence against women and domestic violence. In this context, I welcome the announcement that Facebook has finally bowed to pressure concerning the potential for content on its site to promote violence against women. The company confirmed last Tuesday that it would remove supposedly humorous content endorsing rape and domestic violence. An example of this was a picture of Rihanna's face covered in bruises - I hope it is acceptable to mention the likes of Rihanna on the Order of Business - with the caption "Chris Brown's Greatest Hits". That is supposed to be funny but is actually horrendous. Facebook has also agreed to update its policies on hate speech and increase the accountability of content creators. This development marks an important victory for various women's rights activists. It is difficult to comprehend how such offensive material was allowed to remain on the site. I applaud this development in the light of the disturbing statistic that one in five women in this country has been subjected to domestic violence. On more than 2,500 occasions women and their children could not be accommodated-----

**An Cathaoirleach:** Is the Senator seeking a debate on this issue?

**Senator Catherine Noone:** We had a debate on some of these issues recently, but I was anxious to raise this particular matter. I urge the Minister for Justice and Equality to join the 29 EU member states which have signed the Council of Europe convention on preventing and combating violence against women and domestic violence.

**Senator Colm Burke:** The report on the public hearings by the Joint Committee on Health and Children on the heads of the protection of life during pregnancy Bill 2013 was signed off on this morning and will be available to Members at 1 p.m. It is a valuable document setting out a summary of the evidence given to the committee by the various experts and will provide important context for the debate following publication of the Bill. That process has shown the importance of public consultation and inviting contributions from all sides of an argument. I also take the opportunity to acknowledge the Senators and Deputies who made very constructive contributions during the course of the debate.

On the human tissue Bill, it is vital that we move this issue forward as soon as possible in the context of the broader question of organ donation. We are far behind other countries in Europe in this regard. I gave the example recently that one kidney transplant led to a saving of €750,000 during the lifetime of the recipient. It is most important that the Bill which, I understand, is at draft stage, is brought forward at an early date. I call on the Leader to seek clarification from the Minister for Health on the matter. If necessary the Bill should be commenced in this House because it is important that we move forward. We need to deal with this issue. There are more than 1,800 people on dialysis at the moment, compared with Norway where there are only 370 patients, because it has a far more proactive policy in place in respect of organ donation.

I wish to raise one other issue in dealing with this Bill. One of the things we do not incorporate in this country relates to where there is no provision for living donors to recoup even their out-of-pocket expenses. They must take time off from work and so on and that should be part of the Bill as well. That is a major debate and we need to have it. If necessary, in the area of presumed consent to a donation we should have a similar consultation process to the process we had in the protection of life during pregnancy Bill. It would be useful to have a public consultation on that issue as well and I call on the Leader to seek clarification.

**Senator Sean D. Barrett:** I note today that the EU Commission has urged the Government to confront a re-emergence of the lax lending standards in the banking system. The Commis-

sion has warned that it has found fresh signs of these lax standards in the recent past. I have asked the Leader to bring to the attention of the Government and the EU Commission that the Seanad has taken a strong stand on this. This is why No. 25 is on the Order Paper. Under the Bill we propose to separate casino banking from utility banking and to require banks to raise more money themselves and to have a higher capitalisation ratio such that this time around they will not be gambling with our money but with their own. The last time it cost us €64 billion upfront and there will probably be a final bill of approximately €90 billion. We should issue a warning from this House to the banks that they must reform and that we will not pay out a second time.

The Minister of State at the Department of Finance, Deputy Hayes, has arranged for the promoters of the Bill, No. 25 on the Order Paper, to meet him and his officials in a few weeks' time and we will be pushing the matter at that stage. However, this is an area where the Seanad is alive to what is happening in Irish banking. We should commend to the Government what the EU Commission has said. We must reform Irish banking. The five years of disastrous performance that we have seen has damaged the lives of everyone in the country and the House should be willing to take a strong stand in this regard.

**Senator Rónán Mullen:** I wish to follow what Senator Colm Burke has said in respect of the publication of the report of the Joint Committee on Health and Children. I am not a member of the committee, but having been involved in the hearings on abortion I reckon the external consultant auditor, Michael O'Sullivan, seems to have done a very fair job in summarising the diverse points of view that were heard. I remain of the view that it was a decidedly flawed process. I do not believe it is possible for people each with bursts of three minutes at a time to engage in anything like the necessary scrutiny, but certainly credit is due to all those who came in and gave of their time. As one of the non-members of the committee who took part throughout the three days I was grateful that other non-members of the committee were present and able to do so as well.

I rise to support an Seanadóir Trevor Ó Clochartaigh maidir le lorg na díospóireachta faoi na scoileanna faoin tuath. It is important that we have the debate now because it appears the value-for-money audit of rural schools is on the Minister's desk. There is an area of concern to me which I have discussed with several primary school teachers and principals and which is relevant in the context of the current debate about child care. What is the position of schools in which there is only one teacher from the point of view of child protection and child safety? Teachers in one-teacher schools believe themselves to be in a vulnerable position in that scenario given that we are all rightly conscious now of having appropriate procedures to prevent harm in light of all that has gone on in this country and all that has been revealed in recent decades. In my sense, and I am told, that teachers in one-teacher schools do not get constructive answers when they talk to Government about their concerns. It is something I would welcome an opportunity to discuss if the Leader is in a position to arrange a debate about the future of rural schools, which I strongly support. They contribute in a major way to the fabric of life in the country. We should always go the extra distance to preserve the quality of life in rural areas and I believe our rural schools are a major part of that. I raise the particular issue of child protection because it is a concern to many people who find themselves as teachers on their own in these schools.

**Senator Maurice Cummins:** Senators Mooney, Norris and Cullinane asked about the Financial Emergency Measures in the Public Interest Bill 2013 and the amount of time we would give to it. I had announced on Tuesday that we would possibly be meeting on Friday to deal with the Bill because I understood there were 85 amendments in the other House. I thought

we would have a similar number of amendments here and I made arrangements that we would meet on Friday. However, I understand that there are now approximately 30 amendments to the Bill from this House. I discussed the matter yesterday with the leaders of Fianna Fáil and Sinn Féin and with Senator Barrett and those who had tabled amendments. In light of the number of amendments tabled I asked if they would not mind if we dealt with the matter on Thursday and proposed the following: we would allow as much time as possible; we would have a break between Second Stage and Committee Stage; we would have a break, as I mentioned in the announcement of the Order of Business, between Committee Stage and Report Stage, if necessary; and we would allow ample time to discuss the Bill in full. That was the reason the business has been ordered as it is ordered. It has been ordered in consultation with all Members on the other side of the House who had tabled amendments.

Senator Mooney welcomed the fact that the Minister for Children and Youth Affairs, Deputy Fitzgerald, will be coming to the House at 12.15 p.m.

Everyone is glad that the chief executive of Apple has mentioned that there is no special deal and I understand that the US Senator in question and the Senate sub-committee have been written to by the Government on this issue to clarify the Government's position.

Senator Bacik welcomed the fact that the National Maternity Hospital in Holles Street will move and that the new hospital will be on the site of St. Vincent's University Hospital. There will be a state-of-the-art building on the site and Senator Bacik has welcomed this. She also notified us of the European space expo in Trinity College next week.

Senator Norris will note that I have explained the position in respect of the Financial Emergency Measures in the Public Interest Bill. I note his points on Bahrain as well and motions have been passed in the House on the matter previously.

**Senator David Norris:** What about metering? Will the Leader transmit to the relevant Ministers the idea of putting-----

**An Cathaoirleach:** The Leader, without interruption, please.

**Senator Maurice Cummins:** We will do that. I have it metered here.

Senator Coghlan welcomed the announcement by the Minister for Agriculture, Food and the Marine, Deputy Coveney, on the agreement on the Common Fisheries Policy. This is a matter which Senator O'Donovan has raised, as have Senators Ó Clochartaigh and Ó Domhnaill. The Minister has agreed to come to the House in early July to discuss the Common Fisheries Policy. As I said on Tuesday, despite what some Senators have stated in the House, the Minister had regular contact with representatives of the fishing industry before the negotiations and he will continue to have negotiations with the stakeholders in that regard. We should all welcome what happened during the negotiations on the Common Fisheries Policy which only concluded last evening. European fisheries Ministers have agreed to end the decades of overfishing and rebuild dwindling stocks by 2020. The agreement will achieve what Members have called for on several occasions. It will stop the annual negotiations over catch quotas by EU Ministers with officials now following scientific advice more closely when setting quotas in the future. I am sure the Minister will expand on this when he attends the House for the debate on fisheries in early July.

I will ask for an update on postal codes for Senator Kelly from the Minister for Communica-

tions, Energy and Natural Resources.

Senators Cullinane, O’Keeffe, Quinn and Healy Eames raised this morning’s announcement by the Minister for Education and Skills on the setting up clusters in third level education and three technological universities which will be based on innovation, research and development. As Senator Cullinane mentioned, I was recently invited with other Members to attend the Telecommunications Software & Systems Group and ArcLabs, TSSG, an offshoot of Waterford Institute of Technology. It is involved in innovation, research and development with linkages to industry and manufacturing. The proposed technological universities should be focused on links with industry. I will arrange for a debate with the Minister as soon as possible to clarify the process in this regard. Quite a number of Members have sought such a debate and I will ask the Minister to facilitate us in early course on this matter.

Senator Ó Murchú raised the links between culture and marching bands in Northern Ireland. As I have stated on many occasions, music transcends all barriers.

Senator Ó Domhnaill raised the matter of drug abuse. I am assured that the Garda and the Customs and Excise have all the resources necessary to tackle this issue. They have a difficult task. The help of local communities and the public is a vital ingredient in solving this problem.

Senators Ó Clochartaigh and Mullen raised the matter of the value for money audits for small schools and called for a debate on the future of rural schools. The report is with the Minister and it is another debate that we can have when he attends the House. At this stage, there are four subjects on which we will be having debates with him.

**Senator Rónán Mullen:** We could have an omnibus debate.

**Senator Maurice Cummins:** I have been criticised for having omnibus debates before and that the subjects should be more specific. The Senators cannot have them every way.

**Senator Fidelma Healy Eames:** I support the Leader on that.

**Senator David Norris:** Why drag CIE into everything?

**Senator Maurice Cummins:** Senators Mullins and Leyden will be able to make the points they raised with the Minister for Children and Youth Affairs later when she attends the House.

Senator Leyden raised the matter of the new electoral boundaries for local authorities. I understand it will go online at 5 p.m. this evening.

Senator Wilson raised the point, one which was raised on Tuesday too, about having some form of notification to go out to people whose passports are about to expire, like what happens with motor tax. The onus is on individuals to check their passports but I will make the point to the Tánaiste and Minister for Foreign Affairs and Trade to see if anything can be done in that regard.

Senator O’Sullivan asked about the costs of coroners’ offices which are borne by local authorities. He made a good point that these would be more appropriate to the Department of Justice and Equality. I will certainly discuss it with the Minister so that those funds could be used to make up the decreases in the funding made available for housing aid for the elderly and so on.

Senator Noone raised the question of violence against women and welcomed the necessary

changes Facebook has made in this regard. It was appalling what was going on there. As she stated, we did have a debate on this matter recently but I commend her on raising this point again this morning.

Senator Colm Burke asked about legislation on organ donation. I understand it is being drafted and I will ask the Minister that it be introduced in the Seanad. Several other Senators have raised this issue before on a number of occasions.

Senator Barrett raised the lax lending standards by banks. I welcome the fact officials will be discussing with the Senator and others, no. 25 on the Order Paper, the Financial Stability and Reform Bill 2013. The Seanad has certainly taken a lead on this issue and we should not be shy in making that point.

**An Cathaoirleach:** Senator Norris has tabled an amendment to the Order of Business: “That all Stages of the Financial Emergency Measures in the Public Interest Bill 2013 not be taken today.” As the amendment has no seconder, it lapses.

Senator O’Donovan has moved an amendment to the Order of Business: “That a debate on the fundamental changes in the EU Common Fisheries Policy be taken today.” Is the amendment being pressed?

**Senator Denis O’Donovan:** Yes.

The Seanad divided by electronic means.

**Senator Diarmuid Wilson:** Under Standing Order 62(3)(b), I request that the division be taken again other than by electronic means.

Amendment put:

The Seanad divided: Tá, 17; Níl, 27.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Bradford, Paul.
Cullinane, David.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Leyden, Terry.	Clune, Deirdre.
MacSharry, Marc.	Coghlan, Eamonn.
Mooney, Paschal.	Coghlan, Paul.
Mullen, Rónán.	Cummins, Maurice.
Norris, David.	D’Arcy, Jim.
O’Brien, Darragh.	D’Arcy, Michael.
O’Donovan, Denis.	Gilroy, John.
O’Sullivan, Ned.	Hayden, Aideen.
Ó Domhnaill, Brian.	Healy Eames, Fidelma.
Ó Murchú, Labhrás.	Henry, Imelda.
Walsh, Jim.	Keane, Cáit.
White, Mary M.	Kelly, John.

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Wilson, Diarmuid.	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O’Keeffe, Susan.
	O’Neill, Pat.
	Quinn, Feargal.
	Sheahan, Tom.
	van Turnhout, Jillian.

Tellers: Tá, Senators Ned O’Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

*12 o’clock*

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

The Seanad divided: Tá, 27; Níl, 16. Tá Bacik, Ivana. Bradford, Paul. Brennan, Terry. Burke, Colm. Clune, Deirdre. Coghlan, Eamonn. Coghlan, Paul. Cummins, Maurice. D’Arcy, Jim. D’Arcy, Michael. Gilroy, John. Hayden, Aideen. Healy Eames, Fidelma. Henry, Imelda. Kelly, John. Landy, Denis. Moloney, Marie. Moran, Mary. Mulcahy, Tony. Mullen, Rónán. Mullins, Michael. Noone, Catherine. O’Keeffe, Susan. O’Neill, Pat. Quinn, Feargal. Sheahan, Tom. van Turnhout, Jillian. Níl Barrett, Sean D. Byrne, Thomas. Cullinane, David. Daly, Mark. Leyden, Terry. MacSharry, Marc. Mooney, Paschal. Norris, David. Ó Domhnaill, Brian. Ó Murchú, Labhrás. O’Brien, Darragh. O’Donovan, Denis. O’Sullivan, Ned. Walsh, Jim. White, Mary M. Wilson, Diarmuid.

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Ned O’Sullivan and Diarmuid Wilson.

Question declared carried.

### **Planning and Development Regulations 2013: Referral to Committee**

**Senator Maurice Cummins:** I move:

That the proposal that Seanad Éireann approves the following Regulations in draft:

The Planning and Development (Amendment) Regulations 2013,

copies of which have been laid in draft form before Seanad Éireann on 28th May, 2013, be referred to the Joint Committee on Environment, Culture and the Gaeltacht, in accordance with Standing Order 70A(3), which, not later than 18th June, 2013, shall send a message to the Seanad in the manner prescribed in Standing Order 73, and Standing Order 75(2) shall accordingly apply.”

Question put and agreed to.

*Sitting suspended at 12.05 p.m. and resumed at 12.15 p.m.*

### **Early Child Care Education Standards: Statements**

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** As I said in the Dáil yesterday, I found the scenes broadcast on Tuesday night’s programme on RTE distressing, shocking and absolutely unacceptable. What we saw was poor practice and a dereliction of duty and care, resulting in the mistreatment of young children. It was abusive, distressing and inappropriate and showed a poor understanding of children’s developmental needs, as all of those Members who watched it will agree. It was truly unacceptable and inappropriate and was harrowing to watch.

Since coming into office I have initiated, prioritised and placed a much overdue focus on early years services. Two months ago I came to this Chamber to address the imperative that is early intervention at the request of Senators who realised how important early intervention services are. We talked about the benefits that can accrue in terms of both better outcomes for children and economic return to the State, but primarily in terms of returns to the individual child. I also used that opportunity to speak of Ireland’s legacy - as I said when I addressed Senators here earlier in the year at their request - of providing direct cash payments instead of investing in services. That is the reality of the legacy. We need to discuss the implications of that and where we go from there. I highlighted a legacy that has allowed us to lag behind many other developed countries when it comes to our early years sector. It is clear that we lag behind our European counterparts when it comes to the early years sector. We have much ground to make up. I further spoke of the need to improve quality standards and workforce capacity in all sectors of child care and early years services. That is the challenge and it is one I am determined to meet.

Up to the last decade, Ireland’s preschool sector was almost non-existent. We all knew the small playgroups that existed in local community halls. It is out of that sector that our current child care services have grown. Everyone knows that. During the late 1990s we still had one of the lowest female workforce participation rates in the developed world and one of the highest unemployment rates. The years of the Celtic tiger saw a scramble to put services in place in response to demand but a wholly inadequate approach to quality and sustainability. On Tuesday night we saw elements of that legacy starkly exposed. We saw the challenges at first hand. We saw what happens when we do not invest in building an effective system and

culture of quality-focused, child-centred service provision and when we do not invest in robust oversight and inspection. We all saw that. As I said, the scenes were shocking and distressing and what they showed was absolutely unacceptable. There was poor practice resulting in the mistreatment of young children. The practices witnessed are currently and rightly the subject of a thorough and comprehensive investigation by, I stress, both the HSE and the Garda. All such incidents of mistreatment of children in child care settings should and must be reported to authorities. The matters addressed in the “Prime Time” programme deserve and demand a comprehensive response.

As I said when I addressed the Senators here earlier in the year, I have already highlighted these issues. I have already acted and will continue to act on many of them. We are aware of the challenge and the work that needs to be done. Work is under way in my Department, by Gordon Jeyes and by the inspectorate to address the range of issues that were highlighted in that programme.

The “Prime Time” recordings highlighted practices on the part of individual staff members which were of very serious concern. The responsibility of management must also be the subject of questioning. Management is responsible for the selection and training of staff, the development of operational policies and practices and the management of day-to-day service delivery. Most of all, management - I am sure all Members will agree with me on this - is responsible for the ethos and culture of the preschool. Its members set the tone through their example, their interaction with children and parents and their guidance of staff. A caring ethos is the very foundation of any preschool service. It is management’s responsibility to ensure this ethos pervades all interactions with a child. This is local commitment on the basis of which good standards are achieved and timely action is taken to address areas that require improvement.

Providers must all be subject to a robust system of regulation and oversight. Parents need that reassurance; of that there is no question. It is clear that significant work is needed in this area. It is already in train and will be developed further. I want to see a strong partnership between providers, parents and the State. We do not have robust registration and have not had it in this sector for ten years but we will have it now. We will have registration rather than notification. It is not enough for people to notify the Department that they want to open a child care service; they must register and meet various criteria, and work is under way to have a registration system in place. We need the kind of regulation and inspection that will underpin standards. We are a small country and we can achieve a system of regulation that is strong and consistent across the country. As I said, in many aspects of child protection and improving children’s services, what we have not had is national implementation, national measurement or a national approach. We cannot get the standards we are talking about and the kind of regulation that is required if it is left to local initiative; there must be a national approach. I want to inform the House that we have not had a national approach to inspection, but we will have it now. It will mean that inspectors can be redeployed to areas of need and can do the work that is necessary. Such a system of regulation must approve the commencement of a service - we are working to achieve this - only after it has been established that it is in a position to meet standards. Where the HSE has been concerned about crèches, some have been closed if there is a question of their being a danger to children. They must be closed in such cases, and that has happened.

We must ensure also through regulation that we will be in a position to respond to parents who have concerns that have not been properly addressed. As I have said a number of times, we need that partnership with parents, but parents can empower themselves in this situation to ask questions about the care of their children and demand to see inspection reports. Parents

throughout the country do that every day. Parents make decisions about the care of their children and if they are not satisfied, they raise concerns. I must inform the House that the level of complaints from parents is low, at 0.3% of all services. Perhaps parents do not know precisely what is happening every hour of every day and, as we saw in the video, I am sure many parents whose children were attending those services were shocked. I make the point that that is the percentage of complaints we get from parents regarding the services.

We need to be proactive in assessing compliance with standards, and we need to publicly report on the standards achieved in each of the 4,600 preschools in the country. I have said that in the coming weeks we will put online the new reports that have been done, and the previous reports should be available to parents if they request them. Providers should be providing them to parents now.

In advance of the establishment of the child and family support agency, work has been under way within the HSE to establish a single national management system for the preschool inspection service. This includes registration for all child care providers, and we are working towards this. I have stated what is involved in that; namely, inspection prior to opening, not afterwards. Registration will begin later this year. We will also outline the compliance requirements necessary to address all the issues that have been raised.

I have said that parents are entitled to ask their service providers to provide copies of the latest HSE inspection reports. They should be available as a matter of course. As stated by the new head of quality assurance at the HSE, Annie Callanan, it should be a mark of any good child care provider that the parent can go in and see its inspection reports, see the qualifications of the staff and see that all the staff are vetted. That is the situation we should be in. I emphasise again that this is not the situation we have been in; it is the situation we are now working towards and that we want to implement. We are working on the development of new national preschool standards which are designed to support providers in delivering a high quality service and to support parents in choosing the child care best suited to their needs. These standards are well advanced and will be implemented later this year. The work has been under way on these new national standards for preschools.

Many of the tools for improving the services are already in place. *Siolta* and *Aistear* are developed but we need to accelerate their implementation. We are developing a more comprehensive and broader-based inspection regime for preschools, moving away from the narrow focus on compliance to a greater focus on outcomes for children, including educational development and child well-being. The programme extracts showed that relationships between adult and child were not being managed. The focus was not on child development. We must ensure that the quality of the relationships and the interaction with children are assessed in order to ensure good outcomes. That work will be informed by the findings of the first ever joint pilot inspection carried out in a small number of settings by inspectors from the HSE and the Department of Education and Skills. I will seek to amend the Child Care Act to ensure that the sanctions are stronger to deal with failure and where there have been prosecutions.

The HSE is addressing existing resource issues in the inspection services in particular parts of the country. The inspection rate in each of the past two years stands at 60% of all providers. I want to see the national average of service inspections carried out every 18 months as being the norm across the board. In England, inspections are carried out every two to three years. Of course, where problems are identified there has to be enforcement which is a key issue. It is no good having inspection without enforcement. Of the 2,500 reports in 2012, there were hun-

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dreds of follow-up visits to deal with compliance issues. Compliance varies from minor issues to what I would call red-line issues. We have to be absolutely clear about the unacceptability of any red-line issues. A good inspection system will inspect for and enforce compliance. That is what we intend to provide. The HSE will prioritise resources to achieve this outcome.

We are working to improve the support and mentoring services for individual preschool services to help them to implement Siolta and Aistear. Siolta is the curriculum standard which is designed for the preschool system. Aistear is the curriculum. We have done much work on the various tools which will provide good outcomes for children. We must now ensure that these are in place and that they are being implemented. In the past ten years there has been a focus on direct cash payments to parents and there has been far less investment in an affordable, accessible, high quality child care sector. This year we will invest €3 billion in direct cash payments. I understand more than anyone how much parents need those direct cash payments. I am simply making the policy point that the investment has been in these cash payments and not in the development of the sector that is the subject of today's debate in the House and which was the subject of the "Prime Time" programme. Everyone is concerned about standards and everyone wants to see quality but I repeat that the focus has been on bricks and mortar and on direct cash payments, rather than on building the system which I am outlining and which should have been coexisting with the development of the sector. I acknowledge there are many good providers providing high-quality services. I see them every week and I know that parents are very satisfied with the quality of care. However, there is no room for complacency. We must ensure a monitoring and inspection system is in place.

I wish to reassure Senators that all complaints in respect of preschool services are acted on by the HSE and where a complaint is made, the services are inspected on an urgent basis. In 2012, the 0.3% of complaints equalled 243 complaints received, all of which were investigated. These and other measures I have outlined will form part of a comprehensive programme of quality improvement and regulation for early years services which will be a key part of Ireland's first ever early years strategy. I have asked the early years strategy group, which is composed of experts from around the country, to examine the issues arising from the "Prime Time" programme. This is already on the agenda for the group. The work of the group is well advanced and I expect to publish its recommendations in September.

I want to be very clear about the change we will drive. We will sign up all the parties involved in the delivery of this change. This is not about any one of these factors such as the number of extra inspectors. I agree that inspection and enforcement is important but we must also deal with the other issues to which I have referred. Issues such as staff qualifications, the culture and management of the sector, must be dealt with. We cannot underestimate the scale of the challenge but we will deal with every one of these issues. There is not a simple, single solution. We should not distil our national response into a narrow overly-simplistic focus on any one factor. We will not achieve a quality service if we simply focus on one factor. We need to address the range of issues. Inspections alone, while essential, are not the answer. What is required is a multifaceted agenda, a partnership between the State and providers, a much broader focus on quality assurance and workforce development, as well as robust registration, regulation and inspection. I have asked Gordon Jeyes to examine the inspection reports on the for-profit sector. We need to analyse the pattern revealed in the inspections of the for-profit sector which is the focus of attention as a result of the "Prime Time" programme. I emphasise the need for a national analysis of the for-profit sector. Many parents have put their trust in these services. There needs to be an in-depth examination of the issues raised as between the

for-profit sector and the not-for-profit voluntary sector. I am collating that information with the assistance of Gordon Jeyes.

This is the Government's and my Department's agenda. It is also the HSE's agenda. Just like the ambitious and comprehensive reform programme under way in child protection, work is already under way and a sustained effort is required for a significant period ahead. This will not be completed overnight. We have the tools and the knowledge but action is what is needed now. I will be to the fore in securing these resources. Parents and society rightly demand and expect the highest standards and this will be a key factor in driving change in the sector. I believe this week's controversy will have a lasting impact in building knowledge about the importance of quality in the preschool sector.

Eleven Deputies raised the issue yesterday in the other House. Today it is the turn of Senators. I have wanted a debate on early years care and on the care of the under-fives. We have not really had such a debate in this country. We have debated teaching standards, monitoring and curriculum in primary schools. We need to focus on the under-fives. Having prioritised this issue since coming to office, I will drive the programme of work required to bring about a quality preschool sector which gives parents a choice of quality services. I look forward to the debate.

**Senator Terry Leyden:** The Minister must feel somewhat embarrassed that she is relying on "Prime Time" to find out what is happening in crèches. If I was Minister in her Department, I would be appalled by what was exposed and shocked that lack of action by the Department and the HSE and inspections allowed this to happen. There is constant exposure but very little happens - it is all talk and no action. Action should be taken immediately to investigate this issue. As the Minister said, the Garda has been called in and so on, but there are 4,600 crèches, the majority of which are doing an excellent job. Let us not undermine all of them. The way to resolve this issue would be to have CCTV systems in every crèche but not to broadcast into the homes of parents because one would then never be able to run a crèche. At least, there would be more evidence and more information available when the inspection took place. It is extraordinary that children could be flipped over and thrown like rag dolls on mattresses and abused. It is horrifying. The most precious things in a family are children. We went through enough in this country with what happened in Letterfrack and all of the places in which children have been abused during the years. In 2013 it is a revelation that this could happen in any institution overseen by the State. It is a wake-up call for the Minister. She is more than two years in office, but the situation continues and she does not seem to be informed about what is going on in these institutions. She is relying on "Prime Time". Fair dues to RTE which I commend for carrying out the investigation. Please God, we will not have come back to this House following another "Prime Time" investigation into the work of the Minister's Department.

**Senator Darragh O'Brien:** I welcome the Minister who has come to the House on a number of occasions. It is a pity that we are here to discuss this issue following the "Prime Time" programme. I speak as someone who has a daughter in child care. There is no question but that the Minister's speech was heartfelt and it was full of references to proposed actions. However, I remind her that on 16 July 2011 she produced the document, Children First, and the Government gave a commitment that in its first year of office it would implement the Children First and Family Support Agency Bills. I do not for one moment question the Minister's bona fides, but her speech would be acceptable if it was made when she was assuming office, outlining what she would do during the term of the Government. She has made some very valid criticisms about previous levels of investment, but she should not use them as an excuse to say direct payments are a problem in terms of the lack of investigations and inspections. When will she

implement the Children First and Family Support Agency Bills?

Some 50,000 children are being looked after in the professional childminding sector, to which the Tánaiste alluded yesterday. That is an area which needs to be looked at. In October 2012 the National Vetting Bureau (Children and Vulnerable Persons) Bill was before the Dáil. As a party, we tabled three specific amendments to include those involved in professional childminding services. Seven months ago the Government rejected these amendments. Why did it reject them?

In the two and a half years since she became Minister for Children and Youth Affairs - I very much welcomed her appointment at the time - what additional funds has the Minister allocated to carry out inspections? She has mentioned that she wants to reach a situation where there will be regular inspections. However, only 60% of crèches and preschool facilities are inspected, which is unacceptable. What additional resources has the Minister put in place? There are areas of the country in which there has not been an inspection for four years and the Minister has been in office for more than two of them.

The Minister's speech was full of proposals to take action, which I welcome. While I do not question her personal commitment, I question the Government's commitment and that of previous Governments. The Minister has outlined measures which need to be implemented immediately and on which work is being done, but this comes as a reaction to an exposé. Did she see the "Prime Time" programme before it was aired? Has she met the HSE executive subsequent to the programme being aired? Will she give me a timeline for implementation of the some of the very valid measures she wants to take? I wish her well in her endeavours, as I always have. I do not question her personal commitment, but we need to know what will happen.

**Senator Imelda Henry:** I welcome the Minister. I say to Senator Terry Leyden that the Minister is alert to the issues involved and working on them. RTE took an opportunity to make a programme which was very disturbing for many, in particular parents who use the facilities of a crèche. Some parents decided not to look at the programme. We have some wonderful and well run crèches. Parents make a decision to have their children minded by private childminders or in crèches which are regulated and unregulated. As the Minister said, 70% of people opt for private childminding services. Inspections are taking place. I know nurses were mentioned, but it is important to know who the inspectors are and what qualifications and expertise they possess.

I am a parent who used crèche facilities in the past. It is important that the staff employed in crèches have the necessary qualifications to work in them, but, most important, parents have an obligation when they hand over their children to a crèche to ask questions and know what is going on. For infants who cannot talk, parents should ask more questions. Last year I took the Minister to a fantastic crèche in Sligo which had been in business for several years, but I was told this morning that no parent had ever asked for an inspection report. I find this worrying. Parents must take more interest in where they send their children and what is going on in the crèche. It is frightening to think they do not.

The last Administration spent a lot of money on bricks and mortar but not on children. We are very lucky to have the Minister and for the past two and a half years she has done an enormous amount of work. Her commitment and passion were evident in her speech. She is someone people in different parties admire and we know she is committed to doing what is best for children. She has done so much work on the Family Support Agency and Children First and in

the referendum campaign. It is very unfair for anyone in this House to say otherwise.

The Minister acted very swiftly following the “Prime Time” programme. It is important that excess staff are redeployed to this area, as in the case of vetting when 25 staff were moved from the Department of Agriculture, Food and the Marine. I welcome the national approach the Minister will take. We have the tools, knowledge and the resources. As a parent, I have complete trust in the Minister. I am sure that when the term of the Government comes to an end, she will be one of the Ministers who will have made huge changes, of which I as a parent of two children will be very proud.

**Senator Jillian van Turnhout:** I warmly welcome the Minister to the House. The purpose of my request for her to address us was twofold. The first was to give confidence to the public, particularly to parents, which I believe she has done in her statement. The second was to send a strong message to her Cabinet colleagues about the importance of this issue - this needs to be a wake-up call. Yesterday during the Order of Business we all got plenty of time to voice our concerns over the images we saw. Today I want to move beyond that shock and talk about our role as legislators. The Minister has spoken today about the importance of the registration system, having sanctions and amending the Child Care Act, on which she will have the support of the House.

The responsibility of management has not received sufficient focus. The researcher on the “Prime Time” programme in some cases reported issues to members of management, who did not see the need to take action until they knew they would be exposed on television. That indicates a more systemic problem in that they did not believe they needed to take action on the basis of reports from one of their workers.

I welcome the Minister’s assurance that not only is the Garda investigating this, but that the HSE is following up as appropriate. I welcome the fact that she will publish the inspection reports. I agree with her that parents should ask for inspection reports if they wish to see them. However, there is an issue with facilities that have not been inspected. We have that heard some facilities have gone four years without an inspection. We need to prioritise the inspection of any child-care setting that has not been inspected within the past 12 months.

I agree with the Minister that we need to pay attention to relationships when the inspection is taking place. There has been too much emphasis on the physical environment and not on the learning environment and the relationship environment.

We need to invest in children and not concrete. The Minister referred to Síolta, the national quality framework, Aistear, the national curriculum, and the 2010 workforce development plan. Hopefully we will shortly have the early years strategy. I regard them as four wheels on a good car. We will have all the parts, but we need the engine to drive it forward and we need the investment to do that. I was alarmed at a report in *The Irish Times* this morning. There has been much talk about cost and whether this will place a greater burden on parents. The report showed a chart of public expenditure on preschool care and education as a percentage of GDP. Ireland spends less than 0.2%. France spends 1.5% of its GDP on early years education, the UK spends 1.1%, and New Zealand spends 1%. Belgium was closest to us at 0.7%. There is an issue with our expenditure as a percentage of GDP. Instead of investing in concrete, we should invest in our children and in childhood.

The National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 has been men-

tioned. I tabled amendments - supported by Childminding Ireland - to provide that where there is regular payment for a service those involved should be vetted.

The Minister has said the Children First Bill will be published shortly. I am a member of the Oireachtas Joint Committee on Health and Children. The committee had the opportunity to examine the heads of the Bill last summer. Representatives of many different organisations appeared before the committee to share their viewpoints. At the time - I seek the Minister's reassurance today - the heads of the Bill proposed that emotional abuse would not be included under its provisions. In the Minister's description of the "Prime Time" programme she talked about emotional abuse. I believe this issue is critical. Many members of the committee and all the representatives of NGOs who came in said that emotional abuse needed to be included and that the provisions should not be limited to dealing with physical neglect and sexual abuse. I hope that one of the achievements of the programme will be that emotional abuse is covered in the Children First legislation.

There is much we could do. We have already had discussions in the Seanad on early years education and intervention. We know the workforce contains some really excellent people, but if they are not being paid well as a profession - that is where the investment needs to be - how can we expect further education and training to take place?

There are many issues. I welcome the fact that the Minister has come to the House for this debate. As I am conscious that many others wish to speak, I will conclude, but I have so much more I would like to say on the issue.

**Senator Aideen Hayden:** I wish to share time with Senator Moloney.

**Acting Chairman (Senator Terry Leyden):** Is that agreed? Agreed.

**Senator Aideen Hayden:** I thank the Minister for coming to the House today. I agree with much of what Senators van Turnhout and Henry have said and will not repeat it. The Minister's record speaks for itself in terms of her excellent performance.

I will be very brief in what I have to say about the "Prime Time" programme, because I wish to move beyond that programme. There is an issue with how the matter came into the public domain; it has been reported that the HSE had inspected one of the crèches one month earlier. There is an issue with the inspection regime. I am aware of similar inspection regimes in other areas where the form of the inspection is the issue. Some inspections end up being nothing more than a box-ticking exercise, and in reality, people do what is inspected and not what is expected. As the Minister said, enforcement is the key. I welcome the commitments the Minister has made and the matters she outlined in her statement. While I will not spend much time going into them, enforcement and inspection are key.

I wish to broaden the debate slightly. There are two issues: one is childminding, which must incorporate child safety, and the other is early years education strategy. Of course the two issues are not mutually exclusive, but I believe we have developed a two-tier child-care system - the formal system, which is being delivered principally through private crèches, and the informal sector, mainly involving children being minded by other members of their communities in low-formality settings, generally outside the tax system.

I raise the issue, which has become more prominent recently, of significant numbers of children being minded by *au pairs*. Senator van Turnhout mentioned this on a previous occasion

and we need to get to grips with it. There is far too little regulation of *au pairs*, many of whom are being left in charge of very young and vulnerable children.

Regarding the informal system of child care, I draw the Minister's attention to a matter I raised with the Minister for Justice and Equality, Deputy Shatter, during the debate on the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012. That legislation is deficient in not making provision for the vetting of people providing informal child care. The response from the Department was that it was not possible because of how the Bill was structured. However, it must be possible to allow for an individual to put himself or herself forward to be vetted so that at the very least parents putting a child into an informal child-care setting are aware that the person to whom they are entrusting their child has been appropriately vetted. I believe it must be possible to put such a system in place.

Regarding State support for child care in financial terms, we depend far too much on private provision. We must tackle the issue of bringing informal child care within a regulatory system, which we do not have at the moment.

**Senator Marie Moloney:** I will not go over what everyone has said. The image we saw in the "Prime Time" programme of children being flipped and flung onto the floor will stick in the minds of everyone and particularly in the minds of parents with children in crèches. We must act swiftly and comprehensively to deal with the issue. Parents need to be able to sleep easily at night and we need to let them know that not every crèche is of that standard. Parents need to be reassured that there are very good crèches also.

This morning I heard a radio report suggesting that those operating under the free preschool year scheme do not need a qualification to mind children. That matter needs to be addressed immediately. We cannot install CCTV cameras to see what is going on.

*1 o'clock*

On Tuesday I visited LauraLynn House - Children's Sunshine Home. Every 15 minutes a member of staff swipes a card at the head of a child's bed to show he or she was inspected during the night. It is not beyond the bounds of possibility to put this system in place. The service offered is second to none and if they can do it, so can crèches and other services.

I am heartened by the Minister's speech and know she will act. This is not new. It went on in 2006, 2007 and 2008, when there were headlines that shocked people. It is ridiculous that Members give out to the Minister on the basis that she is not acting quickly enough. No action was taken in the past, but at least she is ready and willing to act and acted by introducing the referendum. I will support her in whatever she does because it is heartfelt and she will ensure children are safe.

**Senator David Cullinane:** I thank the Minister for attending the Chamber at short notice. I commend Senator Jillian van Turnhout for pressing the issue and the Leader of the House for arranging the debate. Everyone in the House and the public at large were shocked by the contents of the "Prime Time" programme. The shock was quickly followed by anger owing to the fact that this was not a new issue. As far back as 2006 and in a report in 2008, problems with understaffing, inadequate supervision and failures in vetting were identified. Five years after the report and seven years after it first became an issue, a programme showed the abuse of children in crèches.

I know many people who work in the child care sector and the vast majority of those who work in it are of the highest integrity, well qualified and do a superb job. Unfortunately, a minority have not done a good job and have let down everyone in the sector. They were guilty of child abuse, which is the only way to describe how some children were treated. The Taoiseach spoke about the brand image of child care being of the highest standard. We all want to see this, but how can it be squared when we look at the JobBridge website which carries child care worker adverts seeking interns with no experience to work with children for €50 a week? I do not see how this can sit with the brand of child care about which the Taoiseach talked.

It comes back to the issue of whether we value caring. We have had the Minister in the Chamber several times. We must place some of the responsibility on the previous Government with respect to an investment in caring generally and the value attached to it. For years I worked very closely with the Carers Association on its demand for a national caring strategy. I commend the Government for bringing it forward, but none of this, including the children's rights referendum which Sinn Féin supported, means anything if children are being abused and mistreated.

With regard to State funding for child care facilities, the three crèches that were the subject of the report are still open. Are they still receiving State funding? When will we see changes to the inspection regime? Will we continue to see State money being given to child care facilities that are not run properly and in which children do not receive the service they need and are subject to much worse in some areas?

I recognise the Minister has a difficult job to do, but I must be honest when she is in the Chamber and say she has been in the job for two years. There is a responsibility on the Government not just to look back at the previous Government's failures but also to undertake the responsibility to fix the problems in the system and make sure the issues that surfaced in 2006, 2007 and 2008 are properly fixed. We should have proper supervision, inspection and the world-class child care facilities children deserve and need.

**Senator Cáit Keane:** I welcome the Minister who is here at short notice and thank Senator Jillian van Turnhout for requesting the debate.

We have all passed being shocked and saddened by what we have seen. I will not repeat what I said in the Seanad yesterday, but not repeating it does not mean it is not still through my bones. To think any child should have to suffer like that is amazing. "Prime Time" has done the State some service. Since taking office, the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, has also done the State some service. She has demonstrated her commitment to child care and three months ago gave a speech in which she said what she has said today and what she intended to do. At the time I said every Minister and the Government should be behind her because the topic needed to be debated and funding. There is also a need for the diversion of funding. The Minister for Education and Skills raised the matter of children's allowance and people on every side were jumping up and down, saying we could not do this or that. We did not have a debate on the issue.

The Minister has spoken about training. Some 4,000 crèches jumped up around Ireland during the Celtic tiger era, but we did not have the same focus on what went on in them. It is all right having state-of-the-art buildings, but it is the people within them who provide nurturing child care. It is all right having polish and paint, but a little dust will not kill or damage a child in the way psychological damage will. Members could spend 50 minutes debating this issue,

but we only have five minutes each.

**Senator Marie Moloney:** It is not enough time.

**Senator Cáit Keane:** There is a difference between child care, covering the period from birth to three years, preschool services, between the ages of three and six years and care during schoolgoing years. That debate has never happened and it must. There is no point in saying this is the first Government to deal with the issue. I was on the other side of the House when the expert working group was set up in 1992. In 2006 the newspapers and media again highlighted the issue. In 2007 there was a media debate on what had gone wrong in a crèche. It is not new. I congratulate the Minister on what she is doing. We must look out for false reporting as major issues arose in that respect. I will not go into detail now on that matter.

There should be emphasis on training to degree standard and turning it into a professional service. Children are more important than anything else. We have seen inspections of farmers' markets far more frequently than of crèches. The Minister gave an update on Garda vetting. I am tired of talking about that topic, about which we have spoken for years. The research is available to show the benefits of child care and preschool education for socially disadvantaged children. Some preschools and crèches have online video systems and offer the service to parents who can log on at any time of the day and see what their children are doing. If people have nothing to hide and be afraid of and the regulations are being adhered to according to the book, why not offer the service? For €199, as it was a few years ago, we can set up and maintain the system. Parents can then go to work feeling easy.

When discussing the cost of child care, we must discuss the issue of parents going to work. We must shift the focus from a cost benefit analysis to a proper debate on how child care bills should be paid, the onus on the family and the State and further investment and providing more support for families. Parental leave arrangements should apply to both parents. It is not the case that daddies make babies and mothers care for them. If we are looking for equality in the workplace, we need to provide for both paternal and maternal leave. The debate must move towards the modern realm of duality when it comes to employment and both parents caring for their children. The models of support require to be fully debated, including tax exemptions, tax credits and refundable credits. We have never had the right debate. Since taking office, the Minister has put children and child care to the fore, on which I congratulate her. In appointing a Minister for Children and Youth Affairs the Government has shown its commitment to dealing with the issue. I refer to the turnover of staff in preschool and other child care facilities because of low wages. This turnover is not good for the psychological development of children.

Victoria White wrote in an article: "Our children do not need corporate crèches; they need love". One corporate crèche featured in the programme made a profit €1.6 million and it was grant aided. This also needs to be debated.

**Senator Aideen Hayden:** I move: "That the debate be extended with the Minister to be called on to reply for five minutes at 1.20 p.m. and the debate to conclude at 1.25 p.m."

**Acting Chairman (Senator Terry Leyden):** Is that agreed? Agreed.

**Senator Paschal Mooney:** I welcome the Minister to the House. Her presence enhances the role of the House and she has given a comprehensive statement in response to the shocking scenes we witnessed on Tuesday night. It is sad that it has taken such a programme to activate all the responses we have heard over the past 48 hours. I agree with the sentiments expressed

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about Deputy Fitzgerald as a person but we are debating her role as a Minister and my comments are not personal.

Will she liaise with the relevant agencies, including the Garda and the HSE, to ensure those who appeared to be culpable and responsible for child abuse in the television programme are brought to justice? One of the perpetrators has been dismissed but that is not enough. I do not go round seeking people's heads but this is such a serious issue that those who have been found to have engaged in child abuse as a result of the programme should be brought to justice and charged before the courts. Has the Minister liaised with the agencies in this regard? According to today's newspapers, the Garda is investigating parental complaints. I appreciate this is outside the Minister's remit but she may have a comment on that. These people should be brought to justice. The fact that this has happened in Dublin should not lead people to think they are in a comfort zone in which they believe these practices are only going on in Dublin. If cameras were taken undercover into other crèches throughout the country, I wonder what the outcome would be. The scenario outlined was horrific.

Leitrim is mentioned as one of the counties that has not been subjected to an inspection. The media coverage of child care facilities nationally focused on 15 child care services, which is less than 0.5% of the total nationally and did not reflect the position in all child care services. In County Leitrim, 206 staff work directly with children in child care facilities, 92% of whom are trained to FETAC level 5 standard, caring for children, or level 6, supervision in child care, while 89% have completed an occupational first aid course and 81% have completed the recommended HSE Children First child protection training. In addition, 59% of services are currently doing curriculum training with further courses for both preschool and after school, 75% of services are engaged in Síolta, the national quality framework for early childhood education, while 48% of services have completed an early years health promotion programme.

The standard of care and education in the county has always been reported as high and both child care services and the county child care committee have a good working relationship with the HSE inspection team. Leitrim county child care committee liaises regularly with parents and child care services on queries, information, policy development and recruitment processes. All parents are regularly encouraged to talk to the person looking after their child, as outlined by Senator Henry and others, and to request from the manager the most recent inspection reports, which are publicly available, to reassure themselves about the quality provided.

I acknowledge there has been significant investment by the Department in child care nationwide, including direct investment in child care places, capital support and local county-based programmes such as county child care committees and the national voluntary child care committee. Continued and increased investment is vital for the enhancement of quality and the sustainability of services in the child care sector. In rural areas, the local child care facility is of the utmost importance as children in these areas often have no other option available to them. However, as quality improvement in child care is a continuous process, I would like to highlight that the lack of a public health nurse on the inspection team in County Leitrim since February 2012 has meant that only half of the inspection process has been carried out since then. There is an urgent requirement for the full inspection team to be put in place. In addition, the current EHO is covering County Sligo as well as County Leitrim, thus making inspections less frequent. Will the Minister examine this in the context of resources?

I raised the issue of financial assistance towards the cost of fees for access to part-time degree courses in early years child care and education on the Adjournment earlier this week. A

total of 204 people in County Leitrim have taken FETAC level 6 and they want to go on to do a bachelor of arts degree in child care, which would cost them €12,000 for a four year part-time course. Most of them work part time at home or in the workplace but all the Government's job creation initiatives and resources are geared towards those who are unemployed and who want to take up full-time education. Will the Minister use her good offices to seek a subsidy or support for these people if she is serious about enhancing the educational qualifications of those working in child care?

I refer to the roll-out of the early childhood curriculum framework and increased investment to complete the formal roll-out of Síolta, which as Senator van Turnhout said, has not been rolled out nationally because sufficient resources have not been put into it.

**Acting Chairman (Senator Terry Leyden):** Four Senators wish to contribute and the Minister has kindly agreed to reply for five minutes at 1.30 p.m. Is it agreed that the remaining Senators have three minutes each? Agreed.

**Senator Aideen Hayden:** I move: "That the debate be extended until 1.35 p.m. with the Minister to be called on to reply at 1.30 p.m."

**Acting Chairman (Senator Terry Leyden):** Is that agreed? Agreed.

**Senator Mary Moran:** I also welcome the Minister and thank her for attending the House. I thank Senator van Turnhout for having the foresight to ensure the debate took place today.

I was shocked and horrified by the events I witnessed on the television programme. Certain crèches were highlighted. I watched it with a particular interest because my son was in respite care that night and my initial reaction was to think of my own child and of the facilities in which he was being cared. This issue is about vulnerable children who cannot speak up for themselves. I welcome that the Minister was straight up and came forward to address it. I also welcome her statement that she will publish the inspection reports. Reports were made on one of the crèches featured in the programme a month previously but six years ago we had this debate. It is not good enough to just publish reports; they must be followed up and double checked. I worked as a teacher when whole-school inspections were introduced. The school received two weeks' notice and everything was cleaned up and written up to ensure everything was right for the inspection. It is important that checks should be strenuously carried out and that we do not find out six years later that recommendations were not implemented. An example should be made of the people who were caught on camera and they should be brought to justice because our children are our most precious commodity.

The issue of qualifications was highlighted in the programme. Most people have a FETAC level 5 qualification but that must be a requirement across the board. We must examine strenuously qualifications, background checks and Garda vetting. Pay should be appropriate to qualifications because, as has been pointed out, people are frequently working for pay just above the minimum wage. If there is no value attached to the child care or the worker providing the service, we must address this and ensure staff are paid appropriately so crèches will not just be for profit. Let us face it - most of them have operated for profit.

County Louth is one of the counties that has not been included. Have supports been put in place for the parents and children featured in the programme some nights ago? If one of my children were involved, I would want such supports.

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**Senator Katherine Zappone:** I thank the Minister for attending at short notice. It is important that this kind of debate happen in the Seanad. I thank my colleague, Senator van Turnhout, for requesting it. There is much expertise in the House, as the Minister will have already noted.

I welcome the Minister's commitments and action points. Senator O'Brien indicated the great language in the Minister's speech and the commitment of the Taoiseach. There has been a breach of trust. Wonderful words in this regard have been crafted by my colleague and friend, Dr. Noreen Hayes, a leading human rights advocate and academic in the field. Much needs to happen to ensure there will not be another breach of trust, particularly in terms of our lawmaking. Others have mentioned that we need to have legislation in place as soon as possible so parents can have the confidence again to entrust the care of their children to others.

The Minister has started a national debate on early years education and care. We will have the strategy published and we will return to many of these issues when that is done. Irrespective of the time that will have elapsed in that regard, we will look forward to hearing the progress made in some of the action points the Minister has outlined. I am certain that, with her leadership, it will happen.

What is the nature of the inspections? What do the inspections of the diversity of early childhood care providers cover? As with other Senators, I was struck by the incredible contrast between the gorgeous buildings and the internal physical environments, and the appalling lack of standards in care and education. What do we inspect?

The Minister outlined the guidelines that were developed in terms of Aistear, the early childhood curriculum framework, and Síolta, which pertains to quality care and standards. As far as I am aware, while there is a requirement to inspect according to both of these frameworks, the inspectors have not been trained on them. What is inspected or enforced determines to a large degree what is done what should be done.

The Minister indicated that new national preschool standards are about to be rolled out. What is the relationship between these and the standards in Aistear and Síolta? We need to ensure the standards in the other two frameworks are being implemented at least at the same time as the ones that are being developed.

My second area of questioning concerns where the Government should focus the next tranche of investment in this developing sector. It is imperative that the Government get it right. The Minister has outlined a major policy shift from direct cash payments to development of the sector. Let us say this is the Minister's pre-budget speech. One aspect has been outlined already. As others have said, we need a workforce that is fit for purpose. Are we satisfied that our current training system provides this? Professionals need strong qualifications not unlike those of primary school teachers. Child care is and should be a profession. The majority of those teaching in primary schools today have benefited from a State-funded B.Ed. As with Senator Mooney, I ask why this should not also be the case for those working in the early years education and care sector. Particularly for mature and part-time students, can the State justify the investment in and training of primary school educators who educate children of four years of age and not make a similar investment in the training of those involved in early years education?

**Senator Michael Mullins:** I welcome the Minister and thank Senator van Turnhout for en-

suring an early debate. Like everybody else, I was absolutely horrified by the findings in RTE's "Prime Time" programme some nights ago. I am absolutely confident that the Minister will and is continuing to address the many issues that arise in respect of child care.

Given that I was involved with the community child care project in Ballinasloe and had the pleasure of welcoming the Minister to open that fine facility recently, I was very surprised to learn HSE inspections were not happening in the facilities highlighted in the programme. I am aware that our new facility in Ballinasloe has been inspected regularly. This is a matter of quality assurance and inspection. I am sure the Minister will be homing in on these issues very much. It is worth highlighting that when the last Fianna Fáil Government introduced the free preschool year in 2010, which I very much welcomed, not one cent was allocated for quality assurance and inspection. Money could have been allocated at the time. The early child care supplement was abolished, making a net saving of €300 million. If €5 million or €10 million was allocated for inspections and quality assurance, some of the incidents in the programme some nights ago might not have happened. I urge the Minister to ensure that adequate resources are found within her budget for quality assurance and inspection so what we saw some nights ago can never happen again. The training of staff and ensuring that the workforce is fit for purpose are crucial, as previous speakers have said.

I am concerned that corners are being cut by for-profit facilities. This is in stark contrast with what we see in the community crèche facilities. The Minister has considerable work to do but I am confident we have the right person in the job to ensure that every child who is left at a crèche at 8 a.m. or 9 a.m. will be in safe hands and receive education and care of the standard we have come to expect and in which the taxpayer is investing. I wish the Minister well in a very challenging Department and congratulate her on the great progress she has made to date.

**Senator Trevor Ó Clochartaigh:** Is díospóireacht iontach tábhachtach í seo. Tá mé sásta go bhfuil mé ag fáil deis labhairt. I agree with almost everything that has been said thus far. However, I would like to draw attention to the areas where there are no inspectors at present. I include the local health offices in Dublin south city, Sligo, Leitrim, Louth, Cavan and north Monaghan. This could and should be addressed immediately. Inspectors should be put in place in those locations. Having been chairman of Galway City and County Child Care Committee for three years and as director of a community crèche in Connemara, I note that the number of inspectors is still insufficient around the country. In Galway, for example, the inspectors are totally snowed under with the amount of work that must be done. This must be addressed.

I noted what Senator Mullins said about having €5 million or €10 million made available for the quality assurance regime. I hope that in the budget in October, or even before then, we will see that money made available. I remind the Senator that his Government has had two years in which to put the money in place but it has not done so. Let us hope we see the money allocated in the forthcoming budget.

Issues arise over the privatised model. Certain companies are making handsome profits from it. I wonder whether we should be returning to more community-based models. There is an over-emphasis on the business side.

All the Government Senators who have spoken have done so very passionately but I put it to them that there is a budget coming up in which many of these issues can be addressed. There is no point in their coming in here on budget day wringing their hands and saying they are tied by budgetary measures. Pressure has to be put on every Minister to make this a priority.

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**Senator Marie Moloney:** We are doing so. That is the reality of the state of the country.

**Senator Trevor Ó Clochartaigh:** I applaud the Minister for maintaining-----

*(Interruptions).*

**Senator Paschal Mooney:** There are priorities.

**Senator Trevor Ó Clochartaigh:** If there are cuts to child care and the associated regimes, we will be reminding the Government parties that they were jumping up and down today looking for the opposite.

There is a backlog with regard to Garda clearance. I have been told it is still trying to clear applications made last February. We were told the waiting time would be shortened but it has to be examined. Should funding be withheld from organisations that have not passed inspection regimes?

The pay scales of those employed in these areas need to be examined. Is JobBridge being exploited? In a previous budget, the Minister for Social Protection, Deputy Burton, promised investment in child care when she attempted to make cuts to lone parent payments. Where is the child care she promised?

Last week we debated a Bill on animal health and welfare. There was a lot of debate on looking after animals, and rightly so. I feel we examined that issue more closely than we have examined that of child care. We need a much longer and fuller debate on these issues. The Minister has made great reforms. I hope my questions can be addressed.

**Minister for Children and Youth Affairs (Deputy Frances Fitzgerald):** I thank Senators for their contributions. It is extremely important that we have had the opportunity to discuss this issue. The public debate under way is probably the first real national debate we have had on the early years sector. We have had this type of debate on child protection in a broader sense, but it is good to focus on the early years.

I regret what has precipitated the debate - that is, the contents of the "Prime Time" programme. As Minister I have been very alert to these issues since I took office. That is why I have a programme of work under way. I established the early years group to examine the range of issues on which we have touched today. For too long child care was seen as a solution for working parents, rather than a key input for children and their development. Clearly, that is the focus we need to have.

My job and that of every Senator is to ensure we have a new attitude that values early childhood care and that people understand the sector, what it is about and its importance, and the importance of quality of care for children in the early years. As was said, we have Irish research on the importance of the sector. We have some superb interventions and services for children around the country which are making a difference to the lives of families and children. Today we are focusing on areas of difficulty.

It is not correct to say, as the Opposition has said, that services are controlled, organised and managed by the State. There are 4,600 private and community-based preschool services currently meeting the child care needs of parents. As I said, the vast majority operate to a very high standard. I want to focus on areas of particular concern to Senators and respond to some of the points made.

On inspections, in 2011 and 2012 more than 2,600 child care providers were subject to inspection. Senators asked about the regulations. I have a booklet which contains the statutory instrument. It is very detailed. Section 5 is about the development and welfare of children, which are an aspect of inspections. It is not always about inspection; enforcement, follow-up and the quality agenda in the sector are important. The inspection rate we have is 60% of all providers in each year, which compares favourably with comparable jurisdictions such as England, where OFSTED operates a policy of inspecting child care providers on a three- to four-year cycle. I take the points Senators have made about particular parts of the country in regard to inspection services and will address them. I have asked the HSE, which is currently reviewing the regional spread of resources, to determine the measures required to ensure that inspections are carried out on a consistent basis in all areas and whether additional resources or reassignment of staff are required. I have spoken to Mr. Gordon Jeyes in the past few days. I have liaised with the HSE and have spoken to its head of quality assurance and the head of inspectorates to ensure this will happen. We cannot have a situation in which areas of the country have not had inspections because no staff are available. To make sure this happens, Mr. Jeyes is taking a national approach to the issue in order that he can redeploy staff on a national basis to areas where they are needed. That is currently being examined and will happen.

**Senator Paschal Mooney:** Is there a timeframe for that?

**Deputy Frances Fitzgerald:** It is happening right now. Mr. Jeyes is establishing a national approach to inspection which will give him the opportunity to redeploy staff to areas where they are needed. I have spoken to him directly about that.

I also want to see greater attention being paid to risk information in judging the timing of inspections. If complaints have been made about a service, inspectors need to return to it and follow up. Providers that have very good reputations and track records have been examined, and are meeting the children's needs and working effectively. They may not require as much inspection as those where problems have been identified. Some services need to be followed up repeatedly in order that problems are dealt with. We need a basic inspectorate available at all times.

Issues have been raised regarding prosecution of providers. The preschool regulations set out a range of requirements for providers. The inspection process draws attention to areas requiring improvement. There is a very important difference between non-compliance with the regulations and serious incidents which warrant prosecution or closure. We have to be clear about that.

High standards are expected from services and, as in many other areas, few services are found to be fully compliant with the regulations and inspections. Services are expected to rectify faults immediately. As a result, ECCE funding is withdrawn from services only where there are serious non-compliance issues. To cease funding to ECCE services on minor grounds would not be appropriate, would cause disruption for children and parents and would not be the right thing to do.

Where there are serious breaches of the regulations, providers are prosecuted. We need robust prosecution of providers that do not address failings, as in any other area.

**Senator Paschal Mooney:** Does that include the perpetrators rather than the providers?

**Deputy Frances Fitzgerald:** I do not want to prejudice any investigation or make any

comment on the investigation. A serious investigation on the part of the Garda and HSE into incidences of alleged abuse is taking place. Senators have all made comments on whether they consider it to be abuse but I do not want to prejudice what is a very serious investigation. It will take its course.

As I said, there have been prosecutions. Services can be closed and funding can be withdrawn. In the case of serious non-compliance and prosecutions, funding should be withdrawn. Ms Annie Callanan, who will be head of quality in the new child and family agency, will deal with that issue.

On legislation, the child and family support agency Bill, which is the biggest public sector reform on the management of services for children, is being finalised. It has come back from the Attorney General and is being finalised in my Department. The Bill will go before the Cabinet in a few weeks and before the Dáil during this term. That is major progress. It is a huge piece of work.

**Senator Thomas Byrne:** Will the Bill come before the House before the recess?

**Deputy Frances Fitzgerald:** Yes. There are well over 100 heads in the Bill and a serious amount of work has been done on it over the past year. It represents major reform.

The Children First Bill is also very complex legislation. I have had the benefit of the committee's responses on that. We need to bring revised heads of the Bill to the Government. I hope that will happen before the end of this term. The Bill will be introduced later in the year. The Children First legislation raises very complex issues. It involves huge reform in regard to mandatory reporting of concerns about child protection and has major implications for organisations, professionals and individuals. The committee pointed out, in its 600-page examination of the Bill, the series of issues involved. We have worked through them. A huge amount of work is being done. I do not want to rush the legislation. We have to do the work on this properly because we cannot get it wrong. It has implications for medical professionals, teachers and all professionals working with children. It is being progressed.

In regard to training, it is important to note that there have been substantial improvements in this regard since the introduction of the early child hood care and education scheme. This is a difficult and stressful time for the parents of children who featured in the RTE report, for whom counselling services have been made available. I understand RTE was very sensitive in its dealings with parents in the course of the making of the programme, with careful efforts made to avoid undue intrusion into the lives of their children. I am, of course, concerned for those people who have received stressful information about the care given to their children in the facilities in question. I did not see the programme in advance of its airing on Tuesday night. I was available to participate in it but, as it confirmed the other day, RTE did not choose to invite me to do so.

I thank Senators for their contributions to the debate. I hope I have dealt with the major issues that were raised.

**Senator Darragh O'Brien:** Before the Minister takes her seat, will she comment on the allocation of funding for inspections?

**Deputy Frances Fitzgerald:** Given the legacy economic issues we inherited and the requirement to borrow €1 billion per month, I was very pleased last year to succeed in ring-

fencing funding for the proposed child and family agency to the tune of €600 million, which includes the inspection budget. In addition, I secured the additional €9 million necessary to retain the universality of the ECCE scheme, as well as an additional €6 million for child care services. I have maintained funding in this sector, and secured additional funding in particular areas, at a difficult financial time in order to ensure the sustainability of existing services, including universal eligibility for the ECCE scheme.

Having said that, I accept that the issues outlined today necessitate action. We need to ring-fence a portion of investment to tackle training issues and build on the various initiatives we have discussed.

**Acting Chairman (Senator Terry Leyden):** I thank the Minister for coming to the House for this debate.

*Sitting suspended at 1.45 p.m. and resumed at 2.05 p.m.*

*2 o'clock*

### **Financial Emergency Measures in the Public Interest Bill 2013: Second Stage**

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

**Senator Thomas Byrne:** On a point of order, a Chathaoirligh, níl go leor daoine anseo le héisteacht leis an méid atá le rá againn ar ábhar chomh tábhachtach le reachtaíocht a ghearrfaidh pá na mílte Státseirbhísigh. Dá bhrí sin, tá mé ag iarraidh córam a ghlaoch sa Teach seo anois.

*Notice taken that 12 Members were not present; House counted and 12 Members being present,*

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The Financial Emergency Measures in the Public Interest Bill 2013 gives effect to the Government’s proposals to reduce the remuneration of certain public servants on higher rates of pay in excess of €65,000, provide for a reduction in the amount of pension or other benefits, other than lump sums, payable to or in respect of certain persons who are or were in the public service under an occupational pension scheme or pension arrangement, and provide for a suspension of incremental progression for three years for all public servants. The freezing of increments will apply unless the employees in question are covered by a collective agreement that modifies the terms of the incremental suspension and that has been registered with the Labour Relations Commission.

This is the fifth financial emergency measures legislative proposal that has come before the Oireachtas for consideration. Three were introduced by the previous Government in 2009 and 2010. Those Acts were introduced unilaterally and made provision for reductions in the annual remuneration of public servants through a pension-related reduction of €1.35 billion and a reduction in remuneration of €1 billion. This was followed by the Financial Emergency Measures in the Public Interest Act 2010, which introduced the public service pension reduction,

PSPR. The Financial Emergency Measures in the Public Interest (Amendment) Act 2011 was introduced by this Government in line with the outcome of the referendum on the 29th amendment to the Constitution to apply proportionate reductions to judicial remuneration following a vote of the people. The Act also provided the necessary legislative amendments to support the reductions applied by this Government to ministerial officeholders and on an administrative basis when taking office in March 2011. Senators will recall that one of the first actions of the Government was to cut the pay of the new Government and we applied further reductions to the pensions of the previous Government in the 2011 Act.

Notwithstanding the pressing economic and fiscal challenges faced in the recent past and which we continue to face as a country today, I do not consider that any of these financial emergency measures have been brought to the Oireachtas, irrespective of the Government concerned, by choice or with anything approaching enthusiasm. The reality is that no government or politician could expect a welcome for these measures. We must rely on the hope, certainly not the expectation, that these measures will be seen, in hindsight if not now, for what they are. They are not measures of choice. In effect when all options are unpleasant the choices become about trying to limit the pain imposed on those affected. These measures before us are painful certainly but they will make a vital and proportionate contribution to the repositioning of our public finances to a sustainable model and will assist us in regaining our economic independence as we reclaim control of our economic futures.

I and my colleagues in government are acutely aware that, irrespective of the requirement to meet the general government deficit target of below 3% by 2015 and the necessity of a proportionate contribution of €300 million in 2013 and €1 billion by 2015 in savings, to be made from the public service pay bill, the measures proposed in this Bill impact adversely on public servants and I am not trying to hide that fact. As I have noted previously, public servants have contributed significantly through the pension levy imposed in 2009, the pay reduction imposed in 2010 and through other measures, including head count reduction, reduced salary rates for new entrants and reductions in pension payments to pensioners under the PSPR.

Public servants live in the same economy as all workers do; they share the same costs, taxes and interest rates that all workers do; and, undoubtedly, they share in the many difficulties that the current crisis has caused for individuals and families in the wider economy, such as significant debt, high mortgages, negative equity and loss of employment for family members. There has been an unedifying rush to criticise and point out the weaknesses and ills of the public service for political and other agendas. Among the shrill voices there is a tendency to tackle the man or woman rather than the ball and grossly unfair generalisations are made about public servants as a group. This ignores the human face of the public service. People working in the service deliver vital public services that are of benefit to society on a daily basis at all hours of the day and night in an efficient professional way without fear, favour or judgment.

The public service is not perfect and this is why my Department has a particular title and mandate which focuses on reform and transformation. However, this should in no way denigrate the job done by and the many excellent characteristics of our public service and public servants which are well recognised by our international partners. We need look no further for an illustration of the capacity and ability to deliver by our public servants, even in times of severe resource reductions, than the current Irish Presidency of the European Union which draws to a close next month. An excellent Presidency has been delivered and this is widely recognised by our EU colleagues. I intend to reflect upon this performance and I hope to bring forward proposals that will go some way to acknowledge it in the coming months.

**Senator Thomas Byrne:** That is self praise.

**Deputy Brendan Howlin:** This is not self praise. I acknowledge the work done by numerous civil servants, who have fronted the bulk of the work on a remarkable level in recent months.

While much is made of the significant remuneration rates at higher levels in the public service which were allowed to develop before the current fiscal crisis enveloped us all, my record as Minister since taking office in March 2011 stands scrutiny in respect of measures taken to tackle higher pay in the public service for employees and officeholders alike. However, the reality remains that the public service is not dominated by high earners. Currently, approximately 87% of public servants earn less than €65,000, a fact worth reflecting upon, and when the pension-related deduction is factored in this reduces to €60,225. A total of 68% of public servants earn €50,000 or less, and when the pension-related deduction is factored in this reduces to €46,750. This is reflected in the proposals made by the Government which ultimately, following the expert and welcome intervention of the Labour Relations Commission, have given rise to the proposed Haddington Road agreement, HRA.

The proposals in the HRA should be considered in the wider context. The HRA has resulted from an intensive engagement between public service employers and the process has been assisted by the Labour Relations Commission. They have negotiated a difficult and complex set of proposals which will deliver the necessary €1 billion saving in the public service pay bill by 2015 while ameliorating the impacts for public service staff on low and middle-incomes to the greatest extent possible. I underscore that the proposals have protected the core pay of 87% of the workers in the public service. They also address many of the concerns expressed by the staff representatives during the long negotiations.

The Haddington Road agreement seeks to achieve a broad balance of equity between public servants and sectors, notwithstanding the complexity and the diversity of public service roles, particularly at individual level. The measures provide that those at the highest levels of pay contribute the most. The proposals also clearly distinguish between the lowest paid, that is, those earning under €35,000, those on middle incomes, that is, those earning between €35,000 to €65,000, and the higher paid, that is, those with a salary greater than €65,000. Those earning under €65,000 will have their increments paused by between three and six months. They will, however, receive their next increment on time and the following increments will be paid in full. The HRA also provides for the continued payment of Saturday and night duty premia and the double time Sunday premium has been maintained. That was an important negotiating demand of some sectors, especially nurses. Other than the increment pause, there will be no impact on their core salaries. In contrast, those on salaries over €65,000 will have their pay reduced by between 5.5% and 10% with longer periods for the award of future increments where those apply.

Like the financial emergency measures legislation that has been introduced, the Haddington Road agreement also reflects the fiscal crisis and challenges which we face as a country. The legislation and the agreement are instruments of their time and their economic environment. Pay reductions through legislation are highly unusual in the history of the State despite our experience of recent times. A negotiated agreement between public service employers and their employees that provides for a significant reduction in the public service payroll is rarer still and I believe such an agreement has never been negotiated before in Ireland. Private employers often have to open their books to employees in similar circumstances but with the public finances there was no such requirement in this case. It is no secret that a sum of almost €1 billion per

month is being borrowed to keep the show on the road to fund our public services and pay our public servants, while we are committed, through our international funding partners, to meet a general government deficit of less than 3% of GDP by 2015. These are the restrictive parameters within which the Government must work. These are recognised and understood by public servants and their representatives because they are all stakeholders in the country and citizens. While we may differ to some degree on how the situation can best be addressed, public servants recognise that the current situation is unsustainable in the longer term.

The Haddington Road agreement, brokered by the Labour Relations Commission, represents a proportionate and equitable contribution to the fiscal consolidation required. The measures provided for in the Bill underpin it. I truly hope all public servants will be able to consider its provisions carefully in the context of the fiscal crises faced by their employers and the people as a whole. I hope they will all get the opportunity to make their judgment through the ballot box or whatever mechanism each union prescribes.

Before addressing the detail of the Bill, it is appropriate to confirm the approach and position of pensioners under the proposed legislation. In seeking to spread the burden of these financial measures it was necessary to look for a further contribution from public service pensioners by revising the public service pension reduction, PSPR. However, on this occasion I was determined to ensure lower paid pensioners would be fully shielded from any impact. On that account, the Bill sets a pension threshold of €32,500 below which no reduction will apply. There has been some confusion that the new PSPR rates applying to pensions of €32,500 would also then be applied to spouses' pensions at €16,250. This is not correct. The only spouses' pensions that will be affected by these measures will be those over €32,500. Just as 13%, a small percentage, of the overall public service earns more than €65,000, the number of pensioners entitled to pensions of €32,500 is also a small figure, 22% of the total pension cohort.

It is worth pointing out when the first PSPR was introduced from 1 January 2011, there was absolutely no consultation with any pensioner group and the measure was introduced unilaterally to impact on all pensions over €12,000. On this occasion I have introduced a PSPR measure which will impact on less than one quarter of public service pensioners. My officials and I have met the Alliance of Retired Public Servants to discuss the rationale behind this move and explain its detail. I felt it was important to show them the courtesy of meeting them, listening to their very genuine concerns and explaining to them why, in the interests of equity, it was necessary that a further contribution be sought from higher paid pensioners. As I explained, it gives the Government no pleasure to have to take these measures and we would all genuinely wish economic circumstances were otherwise. The reality, however, is that the Government must take steps to ensure the economic survival of the State and this impacts across society. The additional reductions, of between 2% and 5%, could not be regarded as excessive, particularly on pensions over €32,500. There was a general view that there must be a further contribution from higher paid pensioners. We saw many people walking out of office or financial institutions which were supposed to be monitoring the State's progress in times of crisis with very large pensions. To ensure they make a contribution, one has to have a wider take as one cannot constitutionally target one tiny group of citizens to make a disproportionate contribution.

On the question of representation of pensioners, I indicated to the Alliance of Retired Public Servants that there would be advantages for both public service pensioners and the Government in having a formalised structure for ongoing engagement on public service pension matters. Before, when one dealt with retired public servants, each sector was represented by its own unique group such as civil servants and nurses. It was necessary to have an overarching repre-

sentative group. I welcome this move to have an alliance. As soon as economic circumstances permit, it will be my priority to move as a matter of priority towards reducing the burden of the PSPR, with the initial focus on those in receipt of lower pensions. We owe this to public service pensioners.

The Bill's primary purpose is to implement the proposed pay reduction for public servants earning annual salaries of €65,000 or more and the parallel but lesser reduction in public service pensions over €32,500. Contingency measures that may be deployed to secure reductions in the public service pay and pensions bill are also included, including provision for a universal freeze on pay increments. The legislation also provides a facility for unions and representative associations to conclude collective agreements with their public service employers which will avoid the need for these contingency measures to be used. I want each public servant to decide on these choices. I accept they are difficult, but I have promised that once this contribution is made, it will be the last ask of public servants.

Section 2 provides for a graduated reduction in the remuneration of public servants earning €65,000 or more. Any amount earned by those higher paid staff up to €80,000 will be subject to a reduction of 5.5%, any amount over €80,000 will be subject to a reduction of 8%, any amount over €150,000 will be reduced by 9% and any amount over €185,000 will be reduced by 10%. All public servants, including the Government and Members of the Oireachtas, other than the President whose pay is protected under the Constitution and the Judiciary will be affected. Those affected by the measure represent some 13% of the public service workforce, those who are paid the most in core salaries and allowances.

This section also includes a provision to enable a public employer or a Minister of the Government to exercise an existing power to fix terms and conditions so as to result in less favourable remuneration, other than core salary, or increased hours for the public servants concerned. That existing power may be exercised, notwithstanding the terms of any enactment, contract or otherwise. In essence, this provision aims to permit public service employers, including Ministers, to make necessary savings if they cannot be achieved by way of collective agreement.

It is important to point out that this section does not grant additional rights to employers to adjust terms and conditions. Basic salaries are excluded. Reductions in basic salaries should only be made in the context of primary legislation and with the consent of the Oireachtas. Furthermore, any group that has its terms of employment set by the Oireachtas cannot have them changed by a Minister or employer. This would include officeholders, in particular the Judiciary whose pay terms are determined not by a Minister but by the Oireachtas.

Section 3 sets out technical amendments which provide for the application of all existing ancillary powers of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 to the new pay reduction, including the prohibition on pay increases and the ability of the Minister to modify the pay reduction as it applies to certain persons or groups on limited grounds, to the pay reduction provided for in the Bill.

Section 5 provides for amendments to be made to the Financial Emergency Measures in the Public Interest Act 2010 to increase and extend the impact of the PSPR on persons who have retired from the public service and attract pensions of €32,500 per annum or more. Persons in receipt of annual pensions of less than €32,500, or their widows who have pensions less than €32,500, will be unaffected by these measures.

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To reflect the fact that public servants who retired before 29 February 2012 would have had their pension entitlements based on pay rates greater than those who subsequently retired after that date, different levels of reduction detailed in the tables apply. The reductions will apply from 1 July 2013. Section 4 is a consequential amendment to the definition of “pensioner”.

In essence, there will be three categories of pensioner. We must remember that people who retired after the last grace period had already had their pensions reduced because their core pay was reduced. I think it fair not to make the same deduction from them as from those whose pensions were based on a higher core pay. It is to have equity that this graduation has been introduced.

Section 6 consists of technical amendments to ensure that relevant elements of the Financial Emergency Measures in the Public Interest Act 2010, including in respect of aggregation of pensions and calculation of pension, are adjusted for the purposes of the Bill.

Sections 7 and 8 provide for a freeze of progression along incremental scales by public servants for a period of three years, commencing on 1 July 2013. Public servants may have the effects of this provision modified on the basis of a collective agreement, which has been registered with the Labour Relations Commission, having been reached. As is standard in these FEMPI Acts, the Minister is, under section 8, granted a power to exempt public servants from the application of the measure on limited and exceptional grounds. That is an important provision. In designing any scheme for approximately 300,000 people, there might arise an anomaly where somebody is adversely affected to an extent that would be unjust. I believe we need the power to address this and to modify the impact where such a case arises.

Section 9 provides that persons retiring before 31 August 2014, or on a later date that may be ordered by the Minister, will be entitled to have their pensions calculated as if the pay reduction and any increment pause or freeze had not applied to them. This provision is similar to the “grace period” provision provided for under the Financial Emergency Measures in the Public Interest (No. 2) Act 2009. It is intended to prevent an unmanageable and unaffordable short-term outflow of staff affected by the pay reduction to the detriment of the delivery of public services. In other words, if people are coming close to their retirement date in the next year or so, they might want to go immediately if they felt their pay would be reduced and, therefore, their pension would be reduced. To deal with this issue, I want to give that grace period until August of next year for the gradual retirement in an orderly way of public servants who are approaching retirement age.

Section 10 amends the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 to provide that the employees of the Railway Procurement Agency and the National Treasury Management Agency will be subject to the measures proposed in this Bill. While they were not included in the pay reduction imposed under the Financial Emergency Measures in the Public Interest (No. 2) Act of 2009, this Government does not consider that the basis for their exclusion continues to be valid. It should be noted that the RPA is due for merger with the National Roads Authority under the rationalisation programme I announced in 2011. This was an anomaly. I do not know why the RPA and the NTMA were excluded from the cuts that were announced in 2009 and I intend to include them in this legislation.

Section 11 amends the Financial Emergency Measures in the Public Interest Act 2009 to provide for a modification of the pension-related deduction that applies to serving public servants. This was one of the changes negotiated under the Haddington Road Agreement. This

modification will reduce the pension deduction on all public servants by a very modest €125 a year, to commence from 1 January next. It looks like something that is almost totemic, at €125 a year, but it is important. I chose to anchor these necessary reductions in a financial emergency measures Bill because that says it is not a normal piece of legislation, nor is it a permanent piece of legislation. It is to deal with a hole in the public finances that must be addressed in as equitable a way as possible, and it should be relaxed as soon as those circumstances change. As a signal that these things are not permanent, a modest start in rowing back at the very lowest level was asked for by the unions and agreed under Haddington Road. That is how section 11 comes about.

Section 12 provides for annual review and report to the Oireachtas of the necessity of the measures set out in the Bill. As an administrative efficiency measure, one single review will now encompass the reviews currently necessary under the FEMPI Acts to date. In other words, it will be necessary for me, as Minister for Public Expenditure and Reform to, on an annual basis, come back to the Oireachtas and say the financial emergency continues to exist and that this is the reason these measures are still justified. The day will come, hopefully in the not too distant future, when that will not be possible to justify, and that happy day will mean we can unravel these measures. As I said, for reasons of administrative efficiency, rather than do it five times in five separate reports for the component parts of each of the five pieces of FEMPI legislation, I propose to have one single reporting mechanism. Section 13 states the Short Title of the Act.

Before concluding, I know that in some quarters there is an effort to portray both this Bill and the Haddington Road Agreement as being anti-union and anti-worker. In my view, nothing could be further from the truth. Certainly, as I have acknowledged earlier, the measures provided for in the Bill and the Haddington Road Agreement are far from painless for public servants, anything but, as I and this Government acknowledge. Many public servants are already well challenged by the impact of the crisis that has befallen our country and they will be impacted again by this Bill. I am very conscious of this, which is why I want to mitigate it as far as is possible and to apportion the burden in as fair a way as possible. However, it is a burden on all who will be impacted by it, and there is no escaping that.

However, there is nothing more pro-worker and more pro-trade union than their employers sitting down openly and honestly with them across the table to tell them the full truth of the economic circumstances of their place of work and, in this instance, of the country of Ireland, and to identify solutions that can be addressed to shared problems, while ameliorating the impact of the measures adopted to the greatest extent possible and generating a collective agreement on a collaborative basis that can enable both employer and employee to share in a sustainable future, with a guarantee of employment. Both the Financial Emergency Measures in the Public Interest Bill 2013, which is now before the House, and the Haddington Road Agreement are mutually supportive of the worker as a stakeholder in the enterprise that employs him or her, that is, the Irish public service. They provide the framework for the concluding of fair and balanced collective agreements - not done on the previous occasions that FEMPI Bills were introduced - across all sectors of the public service so the necessary savings from the pay and pensions bill can be secured.

This is a vital contribution to the final leg of our fiscal consolidation efforts, while delivering public services and securing continued industrial peace. We owe this to our paymasters, the citizenry of our Republic, who pay all our wages and who depend on us to steer the ship of state in these turbulent and difficult times to safe harbour, and to give growth, job potential and

a future for this land. I commend this Bill to the House.

**Senator Thomas Byrne:** With all of the praise and self-praise in which the Minister's speech is steeped, one would be forgiven for thinking Croke Park II was just a bad nightmare in the dreams of public servants, and that the proposals which the Government put forward, which were to divide union against union and to target those workers who work shift work and weekends, were all a nightmare, a dream that did not happen, and that it was not the spirit of this Government or of this Labour Party.

I sometimes wonder why the Minister is there and why we do not have Kieran Mulvey in that chair, because he is the man who has brought the unions and workers to a better position and, in my view, has shamed the Government into offering a fairer deal. It was not any politics that drove the nurses to vote against the original Croke Park II proposals by 95% to 5%; it was the sheer unfairness of it that the Government would target people who spend their nights in hospitals and who spend their weekends away from their families. Yet, the Minister comes to the House claiming all the credit for somebody who came along to clean up the mess that he created. That is what happened.

*(Interruptions).*

**An Cathaoirleach:** Senator Byrne, without interruption.

**Senator Thomas Byrne:** We have the unedifying spectacle of a Minister coming in to extoll the benefits of the previous Financial Emergency Measures in the Public Interest Act in 2009 and 2010 when he viciously and vociferously opposed it on purely populist grounds at the time. We in Fianna Fáil acknowledge that the public pay bill must be tackled but we believe it should be done in the fairest possible way. Those previous pay cuts were very fair.

*(Interruptions).*

**An Cathaoirleach:** Senator Byrne, without interruption.

**Senator Thomas Byrne:** They were done in accordance with the ability to pay. This Government's position and values were expressed in the Croke Park II agreement, which does not get any mention in the Minister's speech, and reflected an attitude of unfairness and pitting one side against the other.

I object most strenuously to the guillotining of this legislation. There is a specific commitment in the programme for Government to have staging and space between the stages of legislation and not to have guillotines. The Government made much of this in Opposition. We accept that there are occasions when legislation needs to be put through faster than is normal practice but the amount of guillotines and bad legislative practice is surely at record levels under this Government.

*(Interruptions).*

**Senator Thomas Byrne:** It is not enough to say that Fianna Fáil did it because Fianna Fáil was thrown out of office at the last general election precisely because Fine Gael and Labour promised they would do things differently. When the Taoiseach was challenged on this yesterday in Dáil, I was very disappointed to hear him respond by saying that Fianna Fáil did it so it is okay for the Government. It is not okay because the public said it was not okay and we paid a high electoral price for that. Fine Gael and Labour in government do not seem to have learned

the lessons of that. They think it is okay to go ahead with the old ways of doing business and that is wrong. It seems that Fianna Fáil is one of the few parties that is trying to learn some of the lessons from the crisis when we acknowledged that the public did not agree with the way things were done. Simply by throwing back what happened in the past at us, this Government is definitely on the wrong course.

*(Interruptions).*

**An Cathaoirleach:** Senator Byrne, without interruption.

**Senator Thomas Byrne:** The Government seems to have brought an end to the process of overall public pay deals by conducting a series of bilateral negotiations in Croke Park II. Some sections of this Bill give it potential for further negotiations. This could appear to favour particular unions over others. There seems to be no overall decision, strategy or vision in respect of this, which may have a long-term impact on industrial relations. Industrial relations in the public sector have been quite good and public servants, as the Minister has said, have put up with a significant amount of cuts in the past few years. When he entered Government, the Minister was among the first to acknowledge that these cuts were necessary. He has since described the original pay cuts legislation - let us call these measures what they are instead of giving them nicknames or initials because the pension cuts were pay cuts - as an important part of stabilising the economic situation of this country. In 2011, when the Government was claiming all the credit for stabilising the fiscal situation, it ignored the fact that it had opposed many of the measures. Many of the measures mentioned by the Minister today were opposed by him when he was in opposition.

What is worrying is that the Government seems to be much more concerned about reducing the public sector pay bill than in improving the delivery of public services. The Minister made great mention of listening to the concerns of the Alliance of Retired Public Servants and asserted that it was not consulted by the previous Government. I certainly met it and I know that many Members of the Dáil met it at the time. I am certain that Ministers met with various pensioner groups at the time. I would be interested in finding out whether no meetings took place because the groups made a huge noise at the time and were very organised. I would be very surprised to hear that no formal meetings were held but I have no doubt that they may have met with Ministers in an informal setting at the time.

Section 2 of the Bill seems to give any Minister very wide powers in respect of staff under the aegis of his Department. The Minister is saying that it does not change anything and that this power to fix terms and conditions is already there. If that power is already there, why do we need a specific provision in law to allow the Minister to change terms and conditions? The fact is that any employer can fix terms and conditions if the employee agrees to them but no employer can break the terms of a contract. The Minister mentioned high public sector pensions and salaries. We are constantly told these cannot be cut. It seems always to come down to contract law. We cannot cut the pay of doctors or pharmacists by more than a certain amount because contract law seems to be supreme. Yet, the Government asserts that the Oireachtas has the power to bring in a provision that will allow a Minister to effectively cut the pay and change the conditions of public servants as he or she wishes. Giving Ministers that power is very dangerous for democratic accountability. In recognition and in honour of the work public servants do, such matters should be brought before the Oireachtas. The Oireachtas is well used to dealing with reductions in public sector pay. It is good that the consultation has taken place over the past few weeks and months, that unions were involved and that the Croke Park II

talks took place because the Government got its answer and had to go back to look for a fairer system for the majority of workers. Here we are doing something that is most novel and unfair and we will certainly oppose giving Ministers this power. This power should be left with the Oireachtas. When we make laws to cut public sector pay, they have always been couched as one-off financial emergency measures. Well we have had five of them. If we must couch major pay cuts as financial emergency measures that are just taken in times of economic crisis, can we then give the power to a Minister to alter terms and conditions of employment?

**Deputy Brendan Howlin:** Other than core pay.

**Senator Thomas Byrne:** The Minister has not learned the lessons of Croke Park II.

**Senator John Gilroy:** We do not need to take any lessons from Fianna Fáil.

**Senator Thomas Byrne:** The whole point of Croke Park II was that allowances, and in some small cases, overtime but particularly allowances on weekends were the core pay of nurses. Core pay includes all of those things and they are the lessons to be learned. There must be severe doubts about whether section 2 is lawful. It is certainly news to me that a Minister has an existing power to reduce terms and conditions of employment. There is no doubt that he can fix them. There is no difficulty if the Minister wants to change working arrangements for the better and the employees agree. However, giving this power to a Minister is very dangerous and we need far greater scrutiny of this on Committee Stage.

**Senator Tom Sheahan:** The Government has published the approved text of new legislation to give effect to the draft agreements arrived at during the recent LRC process. Legislation is needed if direct pay reductions are to be applied to the pay of any group of public servants, including officeholders, such as members of the Government, Members of the Oireachtas and members of the judiciary, and to the pensions of former public servants. Legislation, therefore, is necessary, regardless of whether the proposed reductions are the subject of agreement with the public service unions and associations.

This legislation also confirms the Government's ability to make the necessary savings, should collective agreements not be reached with the unions, by setting out a number of contingency measures. We estimate that these measures will achieve savings to the value of €300 million by the end of the year and €1 billion by the end of the three-year period. The Government has sought at all times to make the necessary savings by agreement. There are very significant benefits for all if work can be done in an atmosphere of industrial peace across each part of the public service. This will benefit both people working in the public service and all of us who rely on public services working efficiently. Employees will know that the essential elements and protections of the Croke Park agreement remain in place. From a national perspective, industrial peace in the public service can be secured at a critical time in our path to economic recovery.

This is a critical time for Ireland. We have restored economic stability and regained our credibility on the international stage. We are on our way to regaining our economic sovereignty. We are on the road to recovery.

In tackling salaries above €65,000 we are attempting in as far as possible to insulate lower paid public servants from the effects of necessary cuts. The Government has been committed to finding the necessary savings from the pay bill, some €300 million from the pay bill in 2013 and €1 billion by the end of 2015.

The Government has always maintained the preferred option is to deliver the necessary savings by agreement and this has been the basis for engagement with unions in the past five months. The Government has also indicated that it is prepared to show the necessary flexibility around how savings could be achieved. That flexibility was availed of by some unions during the original Croke Park II discussions and the Labour Relations Commission process. We are pleased at the outcome of the LRC process this week, which provides us with an opportunity to achieve the necessary savings, afford the protection of a collective agreement to public servants and to provide industrial peace in the public sector at a crucial time for our economy.

I welcome the Minister to the House and I commend the Bill.

**Senator Sean D. Barrett:** I also echo the welcome to the Minister. I will be supporting what he is doing. We would all wish not to be in this position, but two years ago the Members of the Seanad met for the first time in the month of May and this was our job. One could have said that it was the fault of Fianna Fáil, but that is the position. It is amply illustrated in the review - - - -

**Senator David Norris:** The vote will not be unanimous on these benches.

**Senator Sean D. Barrett:** Senator Norris will be voting against the Bill. I would like to welcome the Minister of State, Deputy Alex White.

In the Report of Review Group on State Assets and Liabilities published in April 2011, the national development plan forecast that real GDP would be 42% higher in 2013 than is now expected. We have a political culture to spend the 42% we do not have. Nobody wants to be in this position but we must face up to the situation. I was saying to the Minister, Deputy Howlin, that this is what the Members of both Houses were elected to do. We would have wished for a different starting point but that was not the situation.

In the OECD-IMF staff estimates published in the autumn, our tax bill at 44% of GNP is about five percentage points above the OECD average of 41.9%. We cannot solve this problem by increasing taxation. In fact, in the two years we have been confronting this problem, taxation has risen far more rapidly than people intended or noted by the media. Public expenditure, in spite of headlines saying it has been cut, is in fact still increasing. The adjustment burden which will continue during the programme will be borne on the tax side. It might be a very nice low tax country for some people but, on average, it is not. I am sure the Minister of State's constituents confirm this to him.

The international comparisons on pay in that report show that Ireland has a high public pay bill. The OECD average for compensation of employees is 10.8% of GNP and in Ireland that figure is 14.1%, which is about 35% more than our competitor countries. We must compare ourselves with that. Part of the problem we are addressing is that in the era of benchmarking, public sector pay, at the top level in particular, was determined by people from the law and banks, who were totally out of touch with the international situation. We know from the books written at the time, that when the then Government went to seek assistance from our allies in Europe and abroad, the senior people on those delegations were paid far more than the President of the United States, the Prime Minister of the United Kingdom and indeed Chancellor Merkel. It was not that the delegates were particularly avaricious but were part of a system that generated pay rises which were way out of line with those in competitor countries. Now that we have asked people to rescue us, we must take notice of that.

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A problem identified in the report of an *bord snip nua*, is that the numbers of higher management levels in the Civil Service grew by some 82% in the period 1997 to 2009, at a time when Civil Service numbers as a whole increased by 27%. Not only was the bill increasing, we were promoting people much more rapidly. It was praised at the time but in retrospect, at this juncture one would question the whole basis of social partnership. People were in a room awarding themselves pay rises and not taking much notice of the people who were outside the room. That is what we have inherited. A large part is public pay and the Government has tried to make greater adjustments to pay at the top than at the bottom level.

There is a problem. There is a culture that wants to spend money that we do not have. One exhausts the taxable capacity and the borrowing capacity of country. Eventually that type of party has to end. I know the Secretary General of the Department of Public Expenditure and Reform has been talking about a new economic service. I think of the old system in which the job of the Minister, for example, the Minister for Transport, Tourism and Sport, is to get the biggest possible budget regardless of the consequences for the country. Each Minister fights for expenditure and when one adds up the cost, one ends up with the type of situation we are in today.

The proposal for a Government economic service, to have proper economic evaluation in every Department linked to the Department of Public Expenditure and Reform is absolutely essential. The growth of bureaucracy has been a problem in Ireland. William A. Niskanen has written *The Budget-Maximizing Bureaucrat* which deals with this problem

The lobbying culture is another factor. If one robs Peter to pay Paul, one will get the support of Paul, his lobbyist and his accountant. We must ask whether it is worthwhile from the point of view of society as whole. The Department of Public Expenditure and Reform has to strengthen itself against Departments which maximise their budgets and try to solve problems by throwing money at them.

The complexity of taxation is that people ask for public expenditure on the one hand and then design loopholes not to pay for it by taxation. That must be addressed as well. Many of the advocates of extra public spending do not intend to make any contribution. There is a culture of entitlement, clientelism and lobbying. I hope legislation on lobbying is brought forth. Weak scrutiny in Parliament is an issue. The Minister knows I will raise the need for more checks and balances and scrutiny. We need a Parliament with two Houses. The Seanad, which has 42 new Members, has been trying to do that.

We do have public compensation problems at 14.1% of GNP compared with OECD average of 10.8%, which is 31% more. We have a weak appraisal of capital expenditure. Our expenditure on welfare is 29% above the average and our public expenditure is 23% above the average. We have to tackle this expenditure on multiple fronts.

Current expenditure is €51.5 billion from which the Government is looking for €300 million in savings. These savings targets could also have been met had we made across the board cuts of 0.58%. The pressure must be kept on right across the board for proper economic assessment of spending. Public pay is part of the problem and must be confronted. It is part of the reason the Irish economy is on the rocks. I will speak in detail on the amendments during the Committee Stage debate.

One wishes that we were not starting from this point, but we must get back into line with

the countries with whom we compete. Much reform is needed. I think we are slow in implementing reforms. I hope that measures, such as better value for money, assessment of projects, control of lobbyist and clientelism, and assessment of spending are tackled but one could not succeed without measures on public sector pay because that dominates current expenditure.

**Senator Aideen Hayden:** I welcome the Minister of State, Deputy Alex White, to the House. First, I will address some of the comments made by Senator Thomas Byrne. I find his comments somewhat incredulous. I think he is suffering from some form of schizophrenia. He must think we are all suffering from some form of collective amnesia. Let me remind him that in 2009 and 2010, cuts to pensions amounted to €1.35 billion and in 2010 there was a reduction of €1 billion in remuneration. I am sure that every single public servant in the country is well aware of that fact. On the other hand, we are supposed to believe the Fianna Fáil Party has had some type of Pauline conversion, acknowledge it is *mea culpa* and has learned from the error of its ways. Again I do not think there is a public servant in the country who will swallow that.

*3 o'clock*

Senator Byrne mentioned our failure in regard to the Croke Park II agreement. One of the difficulties we had in negotiating that agreement, as he well knows, is the fact that previous Governments failed to deal with low paid workers' core pay and instead of doing that they hid behind spurious increments and payments such as twilight hours payments and so forth.

**Senator Thomas Byrne:** They are not spurious. Ask any nurse in the country is that a spurious payment?

**Acting Chairman (Senator Michael Mullins):** Senator Hayden to continue without interruption.

**Senator Aideen Hayden:** If anybody is talking about blame for failure to deal with Croke Park II, I would refer him or her to the previous Government.

This Bill is a surprisingly short one comprising only 13 sections and is reasonably succinct in its aims. It enables the reduction of remuneration for certain public servants on higher rates of pay in excess of €65,000, it suspends the payment of increments for three years for all public servants unless they are covered by a collective agreement, it gives the Minister the power to set terms and conditions for public sector employment in terms of working time and variations to non-core pay, and it provides for the reduction in the amount of pensions paid to former public servants.

This legislation comes at the end of a long series of negotiations around pay and conditions in the public sector and, more importantly, it comes in the wake of a number of similar items of legislation removing benefits from public servants, most of them introduced by the previous Government. It is easy to understand the fatigue public servants feel, their anger towards further cuts and that they increasingly feel misunderstood and undervalued. Like all of us, they are sick to the teeth of the expression "delivering more with less". Under increasing pressure on service delivery, public servants feel that what they have delivered under Croke Park I has gone unrecognised by the public. They can be forgiven for that given the scant attention that the media has paid to what has been delivered under Croke Park, focusing instead on stories that drive a wedge between public and private sector workers.

It is important to start this Second Stage debate by recognising what public servants have

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delivered for this country in the past number of years. I will give examples of some of those achievements. By the end of 2012 there were 565,000 more medical card holders in the system, 50,000 more students in schools, 30,000 more third level students and 80,000 more State pensioners, all achieved with less resources. Significant changes have been achieved in work practices and in areas such as Garda rostering, and in spite of fewer resources in many areas of the public service, members of the public have not even noticed a change. We owe a vote of thanks to what the public servants of this country have achieved.

There is no doubt there is renewed confidence in the Irish economy in recent times. We have seen a turnaround in the property market with the recent Irish Banking Federation housing market monitor showing a 14% rise in residential property market transactions for the first quarter of 2013 and a stabilisation in property prices. We have also had recent good news with the creation of 100 jobs in Facebook and today 400 new jobs were announced for Cork. On top of that, we have had recent predictions from the ESRI that Ireland will exceed growth expectations for the next number of years. All of this might lead to an expectation that the crisis is over and that we take our foot off the pedal. We are back to the bond markets and one might think that the troika had gone home. I had almost forgotten A. J. Chopra's name. Unfortunately, that is not the truth of the situation. Although we are 85% of the way there, we still have a distance to go and whether we like it or not we are obliged to go the last 15% if we want to get our country back.

The suggestion has been made, usually from Members on the Opposition benches, that we could do what is needed by either increasing taxes or reducing the cost of provision of services. The reality of the matter is, as Senator Barrett has pointed out, that we have done both. The fact remains that the public service pay bill still represents 36% of total Exchequer expenditure and this currently amounts to €18.1 billion. In spite of all the pain that has been endured so far, we must effect further reductions.

These effective reductions will be achieved by pay cuts. I will not go over what the Minister has said but it is important to recognise that those pay cuts are to be endured by those earning more than €65,000 in the main. That is an important difference between what we are doing in this legislation and what was done under the previous five items of legislation, most of them delivered by the previous Government. It is important to note that to date the majority of public service unions have come on board with the LRC process. I would like to pay tribute to them, to the work of Kieran Mulvey and his team and to the work of the Minister's Department.

This legislation is necessary and it provides a legal framework that needs to be made, of that there is no doubt. As the recital to the Bill notes - it is important to bear this in mind and it bears repeating - these "measures are necessary to address a serious disturbance in the economy and a decline in economic circumstances of the State". An important commitment has been made, and I note the Minister made it again here today, that these measures will only last as long as is necessary. I welcome the commitment he made again here today that there will be an annual review of the necessity for these provisions. I am only too well aware of the scepticism there is among the public about any new cut or new tax imposed given past experience with levies that grow like the layers of an onion. This debate is not about the Haddington Road agreement but I welcome the provisions in it that will restore benefits to workers in the future.

This is the fifth financial emergency measures legislation. It sets a floor in terms of €65,000 of core pay and any pay under that is protected. An important point to repeatedly make is that 87% of workers in the public sector will suffer no reduction to core pay. I am not suggesting

for a minute to Senator Byrne that they will not suffer in other ways but the fact remains that core pay is protected by this agreement. It is important to note also that the application of cuts is stepped in favour of those who earn more. Those who earn more than €65,000 and substantially more than that, will pay more, and that can only be justified. The alternatives, if we were to accept what has been proposed by some people, would be to cut levels of service, but I do not believe in the current environment with the levels of poverty that exist that this would be acceptable.

I accept there have been criticisms of the legislation. I note that it would appear that former public servants had no forum with which to engage with the State. I note the Minister addressed this matter. It is important to state that floor of €32,500 is in place to protect former public servant but this is really about intergenerational solidarity. I do not believe that the entire burden of what is before us should be shouldered entirely by serving members of our public service, many of whom have large mortgages and young families to support. By putting a floor €32,500 in place, we are protecting less well-off public servants.

As the Minister has said, this is the last ask of our public servants. I believe these measures are necessary to restore the economy having regard to the position we are in due to no fault of this Government. I would like to thank our public servants for what they have done for our country in this time of crisis.

**Senator Kathryn Reilly:** I regret the Minister, Deputy Howlin, has left the Chamber but I welcome the Minister of State to the House.

The dictionary definition of bullying is the use of superior strength or influence to intimidate someone, typically to force him or her to do what one wants. The Bill before us today matches that word for word. This Government unilaterally and arbitrarily decided to cut €1 billion from the public sector pay bill, and it was done without any assessment of the impact of these cuts on our public services or the communities that depend on them.

The Government is trying to present these cuts as a reform measure but, unfortunately, the reality is very different. The €1 billion figure has nothing to do with improving our public services or assisting, as the Minister stated in his speech, "... the human face of the public service ... [who] deliver on a daily basis, at all hours of the day or night, vital public services that are of benefit to society in an efficient professional way without fear, favour or judgment". It represents the failure of the Government to reach its own growth targets as originally projected in the troika programme. Those targets were missed because of the policies of austerity, which are strangling the life out of the domestic economy. They are policies the Minister of State's ministerial colleague and party members stated in an article that the Minister co-authored this week were "a recipe for long-lasting recession and disintegration". What is the response? Is it to invest in jobs and people to stimulate growth in demand? It is not. Once again the response is to reach into the pockets of low and middle-income families and take more money from them. The result of that is that more families are pushed into poverty and hardship, there is further depression of domestic demand, and more damage is done to already strained health, education and community services.

These policies of austerity are not working. They may be keeping the European Commission happy to some extent but they are hurting hundreds of thousands of struggling families across the State. I refer to a published article in which the Minister for Social Protection, Deputy Joan Burton, said, the pressure to make far reaching adjustments often means there

is limited time to discuss reforms with trade unions and employers organisations before they introduce undermining reform sustainability. That is why the overwhelming majority of public sector workers rejected the proposals. In rejecting Croke Park II, they were not only defending their own pay and conditions but our domestic economy and our public services. Despite the threats of unilateral pay cuts, they sent the Minister back to the drawing board and from that we have returned with the appropriately named “Beggars Bush” proposals. There was a reluctance to name the proposals after the place in which they were negotiated, but that is a far more appropriate name, not only because of the policy of austerity but they are making beggars out of many of our citizens, individually and collectively, because it was a former British army training barracks where the bullyboy tactics were taught to the British garrison until these tactics were defeated by Republicans in 1922.

**Senator Thomas Byrne:** That has nothing to do with the Senator’s party.

**Senator John Gilroy:** Fantastic.

**Senator David Norris:** Bring them back.

**Senator Kathryn Reilly:** Today Beggars Bush is home to the labour history museum which celebrates a long and hard struggle by ordinary working men and women for fair pay and decent terms and conditions. It is ironic that this is the same location where a Labour Party Minister effectively concluded an agreement that would undermine the pay and working conditions of low and middle-income working men and women. This same Labour Party Minister saw fit to ignore his own fine tradition of defending workers’ rights and instead sought to adopt these bullyboy tactics which dominated Beggars Bush and earlier and darker period in our history.

**Minister of State at the Department of Health (Deputy Alex White):** We see what the workers think when they voted.

**Senator Thomas Byrne:** Some of them already have-----

**Senator Kathryn Reilly:** It is truly remarkable.

**Senator David Cullinane:** We see what they did. A vote would be more important in the next general election.

**Deputy Alex White:** See what the workers think.

**Acting Chairman (Senator Michael Mullins):** Senator Kathryn Reilly to continue without interruption from any side.

**Senator Thomas Byrne:** Only from the Labour Party.

**Senator John Gilroy:** All about the problems-----

**Acting Chairman (Senator Michael Mullins):** I ask that courtesy be shown to Senator Reilly.

**Senator Kathryn Reilly:** Maybe it his choice that led the Government to railroad the legislation through the Oireachtas this week and to avoid the inevitable sense of shame the Minister, Deputy Brendan Howlin, and his Labour Party colleagues must feel at having abandoned not only public sector workers but the proud Labour Party tradition of defending workers’ rights. Sinn Féin opposes the Bill for one simple reason, namely, its intention and purpose is to threaten

ordinary public sector workers into supporting the proposals negotiated at Beggars Bush. It is not about cutting excessive pay of overpaid public sector chiefs or introducing pay equity in the public sector or clawing back the excessive pensions of former politicians and senior servants but a threat to law, to sign up to the Minister's latest slash and burn raid of the public sector or else. Where I come from we have been taught to stand up to bullies-----

**Senator John Gilroy:** We saw how Sinn Féin stood up to people.

**Senator Kathryn Reilly:** By opposing the Bill that is exactly what we are doing.

**Senator Deirdre Clune:** As other speakers have said, this is not an easy measure but it is one that must be put in place if we are to ensure we get our finances back on track. I hope it will not be necessary. I hope we will have agreement but we do not know how individuals will vote. We will leave that to themselves and their various unions but look forward to a positive result in that area. The overarching ambition of all these adjustments is to get our finances back on track. We need to be in a position whereby we are within 3% of our GDP by 2015. Some 85% has been done so far but the most difficult part is the balance. There is no doubt the last mile is always the hardest. The intention is to take €3.5 billion out of the economy in 2013, €3.1 billion in 2014 and €2 billion in 2015.

Some 35% of what the Government takes in is spent on pay and pensions in the public service. If we are to implement the necessary restructuring public sector pay and pensions must be part of that and there is no avoiding it. We are borrowing €12 billion each year to fund our public services and that is unsustainable. If we are to get the economy back on track and create a better future for those who are sitting the leaving certificate examination next week and those who are graduating from our universities this week, then it needs to be done. History will not be kind to us unless we do this. It is easy to rant and rave about it but the fact of the matter is that we have to get our house in order.

Fortunately, the news today is that the economy is good and growing. For the second successive year in a row we have had growth. Our GDP grew last year by 0.9%. The figures for unemployment today are positive. For the first time since 2010 unemployment is less than 14%, a small but significant change. For those who are unemployed the figure has reduced further. That is positive. The more people who are working and paying taxes the less dependence there is on the State for an income. The quicker we can bridge that yawning gap the better.

Senator Aileen Hayden mentioned Croke Park I. It has been positive and has worked well in Cork in respect of the reorganisation of local hospital services. I think I said previously that there is a need to move the services around whereby orthopaedic services are amalgamated in one hospital and cancer services in another. All of that was done because of Croke Park I. I was told by those who are involved in the process that it helped to get people around the table who were committed to delivering essential change in terms of the service delivery. There have been other positive developments under Croke Park I. However, the financial situation dictates that more must be done. Following rejection of the original LRC proposals, Mr. Kieran Mulvey was charged with contacting all relevant parties to engage in negotiations. Much debate took place here on Croke Park I. Some unions chose not to engage in that process while others did engage. It has been shown again with the Haddington Road agreement that they were able to state the effects the proposed changes would have on family and mortgage commitments and they were taken on board. There are new proposals now which will represent changes but will also ensure the Government gets the €300 million it wants in 2013.

I wish to make one further point. While we have heard much about imposing extra taxes on the rich we should be mindful of the recent Forfás report which warned against increasing the tax rate. Ireland already has a high tax rate. If we are to attract foreign investment and mobile workers to this country who are essential for our open economy, that tax wedge needs to be watched carefully *vis-à-vis* our competitors, particularly in the UK. The only future for this economy is a jobs recovery. We need people back at work. The tax wedge needs to be monitored and kept under constant review.

**Senator David Norris:** I strongly oppose the Bill. It is appalling, it is anti-democratic, anti-union and anti-worker. The Financial Emergency Measures in the Public Interest Bill is a misnomer. The first of these Bills was produced about five years ago. Do our emergencies last five years like the so-called “Emergency” we went through during what everybody else thought was World War II. This is a chronic situation.

**Deputy Alex White:** That war lasted 60 years.

**Senator David Norris:** It is not actually an emergency at all. It is a chronic situation brought about by austerity and most international financial thinkers agree this is the situation. I come from a background where I actually voted against the bank guarantee. I also voted against benchmarking because I could see where it would lead but, on the other hand, of course I took the money when it came in so I am not a complete eejit. The Bill is not an emergency, it is a chronic situation otherwise we would not have all these Bills coming before the House. I do not believe I have seen the following in a Bill previously. It is proposed to take Committee and Report Stages on Thursday. Accordingly, this list of amendments is circulated in advance of the conclusion of Second Stage. That is extraordinary notice to give on a Bill.

I refer to some of the points made in the Minister’s contribution. He cited his attempts to ensure fairness. He challenged the idea that there were many rich people in the country. I disagree and say there are rich people in the country. The Government and its predecessor have presided over the greatest division between the poorest and the wealthiest and the greatest redirection of finance towards wealth and capital. The top percentage of people, the millionaires, pay an average rate of about 26%, while the rest of us are paying 45%, 50% or whatever it is. That is a fact and these are the statistics. The separation is widening. The Minister has stated these are the restrictive parameters within which the Government has to work and which are recognised and understood by public servants and their representatives. I do not think there is a great welcome for these measures and wonder how much they are understood by the people mentioned. They may be understood, but they are certainly resented. The Minister probably passed the representatives of SIPTU outside the gates of Leinster House yesterday who felt they had been let down badly by their leaders. The Alliance of Retired Public Servants had a very good idea, but it is not the Government’s; it came from themselves and is a very good one.

The legislation proposes a universal freeze on the payment of increments. It provides a facility for trade unions and representative associations to conclude collective agreements with their public service employers which will avoid the need for these contingency measures to be used. That is a very smarmy way of putting it because it is nothing other than blackmail. The Government is prepared to punish people for exercising their democratic vote. It will not stop them voting, but if they do, it will slap financial penalties on them. That is not the way to go in a democratic society. I say to the Minister of State, Deputy Alex White, that there has been an extraordinary and very dangerous concentration of power in the hands of the Government and, in particular, its Executive. I wonder if this is constitutional and will give my reasons. I

am a member of the IFUT which is balloting its members. Let us suppose the result is “No”. What will happen to all of the members? They will all have these things slapped on them. As I am retired, I presume it will only affect my pension. In order not to be punished, they would have to leave the IFUT and join SIPTU. It is not only undemocratic but it is also probably unconstitutional. The Government has taken to itself in the Bill the power to unilaterally cut pay and pensions, change allowances, freeze increments, change conditions of service, including working hours, in the public service. This is very dangerous.

I wish to comment on what my good friend - we are very lucky to have him as a Member - Senator Sean D. Barrett said. I note that the Minister has returned and know he wants desperately to hear what I have to say. The increase in house sales is as a result of people crowding in from eastern Europe and all over the place to buy up the houses auctioned off in the Shelbourne Hotel every day of the week. There may be 6,000 new jobs in the private sector, but 5,000 have been lost in the public sector. I voted against the bank guarantee and benchmarking and I am also strongly against this Bill. We were told about robbing Peter to pay Paul and heard a very amusing analogy about Paul’s accountant. However, the Bill is robbing both Peter and Paul to pay off the loan sharks. That is what disturbs me about it and I will be voting against it.

**Senator John Gilroy:** I wish to begin by apologising to Senator Thomas Byrne. I interrupted him during his contribution. There is a responsibility on Members to listen carefully to what other Members are saying. There is also a responsibility on them to say something that does not completely exasperate everyone else in the House. Senator Thomas Byrne cannot expect to come into the House and retain a shred of credibility when only six months ago he and his party were proposing measures to cut €350 million from the public pay bill - not €300 million as we have done in a fair way. He criticises us for doing what they proposed to do - to cut and defer increments, cut 5% from all allowances, impose additional working hours and cut premium payments. These proposals were all included in his party’s pre-budget submission, yet he criticises us for doing something which takes less and in a fairer way. There can be no credibility in doing this.

I have to address the points made by Senator David Norris, if he does not mind. He mixes up cause and effect with reference to austerity.

**Senator David Norris:** It is giving the Minister power to tear up a contract.

**Acting Chairman (Senator Michael Mullins):** Senator Norris, please.

**Senator David Norris:** Senator John Gilroy interrupted everyone else.

**Senator John Gilroy:** Sinn Féin’s contribution is interesting for its entertainment value, like most of its economic policies. However, I note the genuine concern for the welfare of the Labour Party, for which I thank it.

This is the fifth Bill dealing with financial emergency measures in the public interest. We must acknowledge the sacrifices made by the public service and which it continues to make. I also acknowledge the contribution public servants have made in returning the country to some level of stability. The public service pay bill makes up 36% of Exchequer expenditure, at €18.3 billion. Savings are crucial and everyone must make a contribution. Higher earners will make a higher contribution. Sinn Féin argues that low-paid workers will suffer, but these measures will hardly affect low-paid public servants. The Minister acknowledges that this is an unpleasant business and I agree. No Government would ever countenance doing anything like this

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unless it was absolutely necessary to do so. Unfortunately, we find ourselves in that unenviable position.

I pay tribute to the Minister for the careful and thoughtful manner in which he went about his business and the careful and thoughtful manner in which he has gone about his business since he was appointed Minister. Even his critics will acknowledge this. I think even Fianna Fáil will be generous enough to acknowledge it.

I pay tribute to the public service trade unions which have robustly defended their position and that of their workers. They have recognised that the situation requires some adjustment to public service pay levels. That is the job of trade unions. They rejected Croke Park II, but the Minister did not panic, although many commentators said this signalled the end and that the sky would fall in. I have been a trade unionist all my life. I was a shop steward and a union secretary. Everyone knows that industrial relations are made up of an engagement process which creates proper and sustainable solutions. These proposals are reasonable. I do not wish to pre-empt the outcome of any vote or decision of the trade union movement, but it is in a position to recommend acceptance of the new deal by some unions which previously were unable to do so.

The key objective of this legislation is to achieve savings of €300 million this year and €1 billion by the end of 2015. The process is equally important. These savings have to be made but by agreement. I note that no other country has managed to implement these reductions in the pay and conditions of public servants without massive industrial unrest. All we have to do is look at Greece and our European partners to see how lack of engagement has resulted in significant societal and industrial unrest. It is a tribute to the Minister, the Government and the Labour Relations Commission.

I look forward to discussing the proposed amendments on Committee Stage. I will leave it at that, but I must say to Senator Byrne that if he continues to contribute, he should at least try to be honest.

**Senator Darragh O'Brien:** I will try to stay honest for Senator Gilroy.

**Senator John Gilroy:** For everyone.

**Senator Darragh O'Brien:** I thank the Senator for his advice.

**Senator John Gilroy:** The Senator is generally honest.

**Senator Darragh O'Brien:** I thank the Senator for his advice because it is always very welcome.

As always, the Minister is welcome. Senator Thomas Byrne laid out our stall but there are some specific points on which I would like to ask a few questions and with which we can deal on Committee Stage. If we were all honest, which we should be, we would know there is a need to make savings in Government expenditure, and that covers the public service and Civil Service sector. Croke Park I was very successful. Senator John Gilroy was not a Member of the Oireachtas when it was negotiated but the *laissez-faire* attitude of the Labour Party to Croke Park I - effectively, it had no view whatsoever - is in stark contrast to its attitude now, when Labour Party Deputies and Senators refer to the success of Croke Park I. We can all agree it was a success at a very difficult time. The public sector has made significant sacrifices.

I take the Minister at his word when he says this is the last thing he will ask, which I genu-

inely hope it is. Some elements of it are unfair. I have a difficulty with the powers this Bill confers on the Minister to bring in sweeping changes to pay and conditions for public sector workers whose unions do not sign up to the Haddington Road agreement. That would be better done by way of statutory instrument, which could be debated in each of the sectors.

I am concerned that the freeze on recruitment remains and that it is a blanket freeze. I raised the deficit in the north east region in regard to adult mental health services during the week. Patients are being sent away and the HSE has stated that it is due to the public sector recruitment embargo. That is one example of it.

Should this be passed and should the unions agree to the Haddington Road proposals, the Government should use the opportunity to move quickly to restart recruitment to the Garda Síochána and to front-line services. The Minister has made changes in regard to graduate nurses and newly recruited teachers, which are welcome because the original proposals were unfair. However, the Government could go one step further. Law and order issues are to the fore. Our gardaí believe they are under-resourced, which they are. There is no question about that. The Government should reopen recruitment to the Garda Síochána.

If a union decides not to go with these proposals, what this Government intends to do in advance of a vote is to have the big stick ready with which to hit it in order to bring forward significant cuts. How would that work in a Department or local authority in which one union accepts the proposals while another does not? If two clerical officers are working in the same place, will the pay of one be reduced further than the other? How does the Minister see that working?

**Deputy Brendan Howlin:** They are all represented by the same trade union.

**Senator Darragh O'Brien:** That is probably a bad example. Let us take teachers or nurses in those situations. That will be particularly difficult.

The Minister does not have an easy job; I do not have to tell him that, because he is working in it every day. There are elements of this that I do not support. Applying pay reductions to those on more than €65,000 is, on balance, fair, but we must remember the pensions element in this. I do not believe pensioners were well represented in these talks. The Minister is looking to reduce the pensions of those who are receiving more than €32,500. Many of these people are retired nurses, teachers and gardaí - people who have given a lifetime's service to the State. Most of them do not have the ability to earn additional income. That is always a difficulty when one is cutting pensions. I am not talking about the pensions of former politicians or Secretaries General but about middle-ranking people who have retired, who could be in their 70s or 80s and who have no ability to earn additional income but who face additional costs, including the property tax. I do not believe that group of people were well represented in these negotiations. The Minister might be able to enlighten me on that and perhaps he has a view on how that could be dealt with. The last people we should be going near are those who have served the State for a substantial period and who have retired. I will be interested to hear the Minister's views on that.

**Senator Maurice Cummins:** I wish to refute Senator Thomas Byrne's contention that the Bill is being guillotined; it is not being guillotined. I explained what was agreed on the Order of Business. We will break for an hour after Second Stage, we will then take Committee Stage and, if necessary, we will break for another period before Report Stage. The Minister was quite willing to come to the House tomorrow, as was everyone, to deal with this matter if it was nec-

essary but the fact that only 30 amendments were tabled for Committee Stage suggested that we could deal with them today. I think that clarifies the matter. I thought explaining it once on the Order of Business would have been sufficient for Senator Byrne, but obviously it was not.

I would like to comment on the suggestion of my colleague opposite, Senator Kathryn Reilly, that the Government is bullying workers. Sinn Féin would know more about bullying than many parties in this House.

**Senator David Cullinane:** What colour is Senator Cummins's shirt?

**Senator Kathryn Reilly:** Do I look like a bully?

**Senator Maurice Cummins:** This Bill is one of a series of measures the Government is required to take in the public interest. The context is the continued priority given to the stabilisation of the public finances and to meeting the State's obligations in regard to the reduction of its deficit. The primary purpose of this legislation is to implement the proposed pay reductions for public servants earning more than €65,000. The legislation makes provision for the Government's preferred option, which is to reach agreement with all of its employees, but it also sets out contingency measures such as the universal freeze on increments, which will have to be implemented in the absence of sectoral agreements.

The Government is acutely aware of the substantial contribution public servants have already made to the fiscal consolidation process. However, the reality is that the public service pay and pensions bill still accounts for 35% of all spending and this further €1 billion in savings is crucial to the task we face. The State is still borrowing €12.5 billion per year, more than €1 billion per month, to fund its public services. In the absence of a desired agreement through consensus, these savings will have to be made through the measures contained in the Bill.

The Government was elected with a mandate to reform the public sector and it is determined to build on the efficiencies achieved to date under the Croke Park deal. The revised public service stability agreement, now referred to as the Haddington Road agreement, provides an opportunity to achieve the necessary savings, afford the protection of a collective agreement to public servants and contribute to the possibility of industrial peace in the public sector at a crucial time in our economy. After the rejection of the LRC proposals, the Government asked Mr. Kieran Mulvey of the LRC to make contact with the relevant parties to investigate whether there was a basis for further engagement that might lead to an agreement. This was indicative of the Government's genuine wish to reach collective agreements and avoid unnecessary upheaval in the provision of our public services while taking real account of the clear concerns of public servants and particularly how those proposals would affect the lives of working parents in the public service and the incomes of certain key groups. The new proposals reflect these concerns while still achieving the necessary savings in the pay and pensions bill. The central fairness measures of the original set of proposals, such as protecting the core salaries of those earning less than €65,000, remain in place. Some specific measures have also been amended; for example, all premium payments for Sundays and public holidays will now be protected.

A substantive and welcome change in the new set of proposals is that a number of unions that did not engage in the first round of the discussions engaged this time and tabled suggestions. I hope that all the unions and representative associations will now be able to conclude collective agreements with their public service employers that will avoid the need to achieve the savings by way of the legislation we are discussing today. I sincerely hope we can proceed

on the basis of consensus to the benefit the people working in the public service and the country as a whole.

I thank the Minister, Mr. Kieran Mulvey and the trade union leaders for concluding talks to agree a revised set of LRC proposals to be considered by trade union members. I urge public sector workers to consider very seriously the alternative to these agreed savings - imposed pay reductions by the Government and industrial conflict. This would be bad for the individual public sectors, service users and the country as a whole. The LRC has made it clear that the latest set of proposals represent the limit of what can be achieved by negotiation between the parties in all circumstances applying at this time.

**Senator David Cullinane:** I welcome the Minister to the House to debate legislation which should not be before us at all. He has a bit of a neck to present the Bill as anything other than threatening legislation whose intention is to divide and conquer the trade unions and threaten public sector workers into accepting a deal that imposes cuts to hard-fought gains made by staff over many years. The vast majority of public sector workers see this threatening legislation as the use of strong-arm tactics by the Government to force through pay cuts and also changes to the entitlements of people who work in the public sector generally - not just those at the top, but also those on low and middle incomes.

We do not support the notion that taking €1 billion out of the public sector is good for the people who work in the public sector, good for the provision of public services or good for the domestic economy. It is bad for all three, because public sector workers, as the Minister knows, have taken significant pay cuts over the past five years. When he was sitting in opposition, the Minister railed against the policies of Fianna Fáil at the time. Now, in government, he is implementing the very same policies. When the Labour Party was in opposition I remember a very different Deputy Gilmore, now the Tánaiste, who used to take to his feet and rail against what was happening with regard to the banks and what Fianna Fáil was doing to working people in the public and private sectors. Those same individuals see nothing different in what they did and what the Government is now doing. The Minister is simply implementing troika policies and Fianna Fáil policies that were agreed as part of the national development plan.

The Minister comes to the House and does not even look at or engage with the people who speak. He looks down at his notes and elsewhere.

**Senator John Gilroy:** He could not engage with the Senator without laughing at him.

**Senator David Cullinane:** He cannot even look people in the eye because there is such an arrogance about the Government-----

**Senator John Gilroy:** He is being polite to the Senator.

**Senator David Cullinane:** -----that he cannot even listen to what people have to say. Just like the Minister for Justice and Equality, he does not even have the ability to listen.

**Senator Aileen Hayden:** That is unfair.

**Senator Darragh O'Brien:** The Senator should play the ball and not the man.

**Senator Ivana Bacik:** On a point of order, that is enough of the personal attacks.

**Senator Maurice Cummins:** The soundbites are good.

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**Senator Ivana Bacik:** This is just soundbite stuff. Let us talk about the substance of the Bill.

**Senator David Cullinane:** The Labour Party in opposition knew all about soundbites. It must be a source of embarrassment for the Minister and his party-----

**Senator Aideen Hayden:** Is this a fig leaf for Sinn Féin's lack of economic policy?

**Acting Chairman (Senator Michael Mullins):** Senator Hayden, please-----

**Senator David Cullinane:** I sat here for 20 minutes without interrupting once while Senator Gilroy criticised my party.

**Senator John Gilroy:** That is because we are talking sense on this side.

**Acting Chairman (Senator Michael Mullins):** Allow the Senator to speak without interruption, please.

**Senator David Cullinane:** I would like to continue with my contribution uninterrupted. The Minister will have an opportunity to respond later. It must be a source of embarrassment for some trade unions that they are in some way affiliated to the Labour Party, given what the Minister is doing in introducing this Bill and the erosion of workers' rights it involves. Does the Minister not realise that those rights, including the working week, were hard fought for? Trade unions had to fight for those rights every step of the way against previous governments. Increments, pay itself and overtime rates are all gains that were hard fought for by working people and they are now being set aside by the Government.

The public sector at the moment is creaking. We know what is happening in our hospitals. Morale is low among front-line nurses and doctors, and the same is true for teachers and local authority workers. Ordinary working people in the public sector have taken average pay cuts of approximately 14%. It is unsustainable for the Government to continue to come back and take from their pockets.

I will come to the substance of the Bill and the alternatives so that the Senators on the other side might learn something. Senator Clune talked about getting our house in order, the tax wedge, foreign direct investment, etc. It is always the same argument that we should not talk about taxes when it comes to foreign direct investment.

**Senator Deirdre Clune:** That is not the point I was making.

**Senator David Cullinane:** The Government cannot deal with any of that, but it has no difficulty introducing legislation that empties the pockets of low- and middle-income workers. She quoted a report that referred to the growing economy. The ESRI reports on the last two budgets referred to their being the most unfair and the most unequal. Here is what the Government could have done. If the Government cut the pay of the people at the top, it would hear no complaint from Sinn Féin - we would support it. It could substantially cut the pay of people earning more than €100,000 a year.

**Senator Aideen Hayden:** Is €65,000 not enough for the Senator?

**Acting Chairman (Senator Michael Mullins):** Senator Cullinane without interruption, please.

**Senator David Cullinane:** It could, for example, deal with real waste in the system.

**Deputy Brendan Howlin:** What is the top?

**Senator David Cullinane:** It is €100,000 a year.

**Deputy Brendan Howlin:** So €98,000 is not the top?

**Senator David Cullinane:** The Minister knows exactly what our proposal is. Public sector pay should be capped at €100,000.

**Senator John Gilroy:** How many does that affect?

**Senator David Cullinane:** I know that would affect the Minister in his pocket, but we will leave that to one side. The Government could also deal with real waste in the system. We know we are spending too much on branded drugs and could achieve considerably greater savings in that area.

**Senator Aileen Hayden:** We all favour that. The Senator should tell us something we do not know.

**Senator David Cullinane:** When the Labour Party was in opposition it talked about eliminating waste in the system, but it has not done so. With a third rate of tax at 48% on incomes of over €100,000, a wealth tax and the standardisation of all tax reliefs, there are any amount of options. The problem is that the Minister is not prepared to listen, which shows the Government's arrogance. It has contempt for ordinary working people and its members know it. Come the next general election-----

**Senator John Gilroy:** It is all about the vote with Sinn Féin.

**Senator David Cullinane:** -----Labour Party Members will reap what they have sown from the people they have betrayed and let down by doing what they have done since coming into government.

**Senator Ivana Bacik:** I welcome the Minister to the House. I welcome the opportunity to debate a Bill about which there has been extensive public debate. I also welcome the opportunity to speak after Senator Cullinane and take on some of the outrageous myths and fabrication he put forward by way of substantive speech. To hear someone from Sinn Féin suggest the Government is guilty of strong-arm tactics is hard to take.

**Senator Trevor Ó Clochartaigh:** What does Senator Bacik mean by that? Can she elaborate on it?

**Senator Ivana Bacik:** To resort to personal attacks on a particular Minister is outrageous. Sinn Féin Members should be able to debate the substance of the Bill but it is typical of the negativity of Sinn Féin and the way it has been thriving on people's misery throughout the past two years-----

**Senator David Cullinane:** Senator Bacik's Government is creating the misery.

**Senator Ivana Bacik:** It has been nothing but negativity. I have listened to Sinn Féin spokespersons being negative about every single piece of progress and every advance the Government has made.

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**Senator David Cullinane:** We are dealing in reality and Senator Bacik will get it when she is on the doorsteps.

**Deputy Brendan Howlin:** Senator Cullinane should stop shouting people down.

**Senator David Cullinane:** They were shouting me down.

**Senator Ivana Bacik:** Let us look at the substance of it. Senators Cummins, Hayden, Gilroy and others put forward the substance of the Bill. It is clear, as the Minister said in his opening statement, that none of us wants to be in a position of introducing the legislation. No Government would introduce cuts to public sector pay by choice. This is a circumstance in which we are in and these are circumstances are not of our making. The legislation is unprecedented. Far from strong-arm tactics, it represents a negotiated settlement with the majority of trade unions. Particular sectoral agreements, as Senators on the other side are well aware, have been reached with the Defence Forces, the Prison Service and the Garda Síochána. These dealt with particular savings in the sectors and were negotiated by union representatives acting in the best interests of their members. The Minister said this was unprecedented and it is the mark of the Labour Party in government. We are negotiating with unions and not imposing unilateral cuts in the way Fianna Fáil did in government on a number of occasions through emergency financial measures.

**Senator Darragh O'Brien:** What about the Croke Park agreement? That is a ridiculous statement to make. The Senator would not make a comment on it in a previous Oireachtas. The Croke Park agreement was negotiated by the previous Government.

**Senator Ivana Bacik:** To be fair, the previous Croke Park agreement was negotiated by the previous Government. I pay tribute to the unions that engaged in the process and stayed with it. I pay tribute to the Labour Relations Commission, which facilitated the process that led to the Haddington Road agreement. It is an agreement that, as others have said, protects the core pay of 87% of those working in the public sector earning less than €65,000. Pay reductions will be introduced for those earning more than €65,000, which is regrettable. It is the best way of doing it in a way that is fair and that has the least impact on those who are lower paid and those earning less than €65,000.

Other speakers referred to the increment freezes to be implemented and where collective agreements apply, the increment effect will be different. The individual's next increment will be paid and there will be a deferral of three months for those under €35,000, a deferral of six months for those earning between €35,000 and €65,000, a total deferral of 12 months for those earning between €65,000 and €100,000, and a three-year deferral for salary scales commencing above €100,000. There are clear graded measures on increments that take into account people's earnings. It is a way of trying to ensure the impact is least on those earning least in the public service.

There are significant advantages for unions that have signed up to the Haddington Road agreement or those that will sign up, having balloted their members. That is to be welcomed. It is not something any party in government is happy or enthusiastic about doing, particularly the Labour Party, but it is something we are committed to doing as part of a package of measures, as Senator Cummins said, to ensure we bring about economic recovery.

There is good news today when we see an increase in the number of people in employment. Today's CSO figures show a drop of 30,000 people on the live register. For the first time since

the start of 2010 we see the number on the live register drop below 300,000. It is still far too many people but it is a sign of an improvement in the economic situation. It is an indication we will be able to get out of the current troika package by the end of the year and that we will regain economic sovereignty. That is a goal many people did not think was possible in 2011 when this Government took office.

**Senator Maurice Cummins:** Hear, hear.

**Senator Ivana Bacik:** Many people on this side could see how difficult the economic situation was and how little finance was available to Ireland. That is what we are trying to get out of through this sort of measure, which is not palatable or something that appeals to any of us. We see it as a necessary way to achieve the economic recovery we are aiming for and working towards. The Government greatly values public servants and the Labour Party values the public service. This is the last ask in this Government.

**Senator Trevor Ó Clochartaigh:** Cuirim fáilte roimh an Aire. Cuirim fáilte roimh an díospóireacht an-tábhachtach seo. Beidh tionchar fadthéarmach ag an mBille seo ar go leor oibrithe sa tír seo. Ba mhaith liom mo mhíshástacht agus míshástacht mo chomhghleacaithe i Sinn Féin maidir leis an gcaoi ina bhfuil an reachtaíocht á thabhairt chun cinn a léiriú.

The Haddington Road agreement, as it has become known, is an effort to strong arm public sector workers and it is unhelpful and unnecessary. The Minister tasked Mr. Kieran Mulvey of the Labour Relations Commission to enter into fresh negotiations with union leaders following the members' rejection of Croke Park II. At every turn, the Minister has undermined his initiative with persistent threats of unilateral cuts. It is particularly unhelpful that, at a time when unions are going to their members to ballot them on the issues discussed in the Haddington Road agreement, this legislation hangs over them as a threat. It is a retrograde step by any Government, particularly one that steeps itself in links to the unions. Railroading this legislation through the Dáil is little more than throwing political shapes.

The Minister is responsible for the largest workforce in the country. If an employer treated staff in such a manner, Labour Party Deputies would be the first to voice their outrage, and rightly so. Union leaders have held up their side of the negotiations by coming to the table and entering negotiations with the chief executive of the Labour Relations Commission. Over the coming weeks, workers will make their decision on the Haddington Road deal. The boot boy tactics at every turn of the process have been deeply disappointing, not least for low and middle-income public sector workers at the front line of the Government's austerity agenda.

Sinn Féin does not support cutting the pay of low and middle-income public sector workers, therefore we do not support the Government position that €300 million in 2013, and €1 billion by 2015, must be cut from the public sector pay and pensions bill. Savings can be found in the pay and pensions bill by targeting those at the top, such as capping hospital consultants pay at €150,000 and imposing a higher levy on goldplated pensions to former Ministers and taoisigh, which would save €100 million. Deputy Mary Lou McDonald submitted a number of amendments to the Bill during its passage in the Dáil. These would target pay at the top and cut goldplated pensions and payments, reduce politicians' pay and perks, protect low and middle-income workers' increments and remove the ability of the Minister to increase public sector employees' working hours at the Government's discretion.

In addition, Sinn Féin budget 2013 expenditure proposals set out fair expenditure reductions

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across public services. We also set out additional taxation measures that are sustainable and equitable. It is up to public sector workers to consider whether they will sign up to the Haddington Road agreement. We have been consistent in our analysis that targeting low and middle-income workers' pay year after year is economically and socially unsound. Taking people's spending power out of the domestic economy and putting it into the black hole of bad bank debt is not a strategy but a road to nowhere for the 14% on the live register, the 300,000 people who have left Ireland over the past four years and the one in four households experiencing household distress.

Senator Bacik mentioned employment figures released today but what was not mentioned is the major increase in under-employment. That must be factored in. Fine Gael members of the Government are quite happy with the legislation because it pushes their agenda of dividing and conquering the unions. It is a pity the Minister for Public Expenditure and Reform is in the position to do so. The effect this will have on services and morale in the public services and on the economy cannot be underestimated. This will not stimulate the economy, which is what we need to do to create jobs and have a job stimulus. Contrary to what was said, Sinn Féin has made plenty of positive proposals.

**Senator John Gilroy:** Nonsense.

**Senator Trevor Ó Clochartaigh:** I do not think Senator Gilroy has read it.

**Senator John Gilroy:** I read it all as bedtime entertainment.

**Acting Chairman (Senator Michael Mullins):** Senator Ó Clochartaigh, without interruption.

**Senator Trevor Ó Clochartaigh:** Go raibh míle maith agat, a Chathaoirligh Gníomhach, as ucht beagáinín smacht a chur ar na bully boys thall ansin. We constantly put forward positive proposals on job stimulus and creating jobs. We will continue to do so. There is major scope for additional spending savings, particularly in the public sector pay and pensions bill. However, these reductions need to come from the top. Sinn Féin's budget 2013 expenditure proposals set out fair expenditure reductions across public service. We have also put forward additional tax measures that are sustainable and fair.

*4 o'clock*

The Minister has no problem threatening low-paid clerical officers, the majority of whom are women, with unilateral pay cuts, increment freezes-----

*(Interruptions).*

**Deputy Brendan Howlin:** There are no cuts.

**Senator Trevor Ó Clochartaigh:** -----but he balks at the very suggestion of reducing Bertie Ahern's or Brian Cowen's pension payments of €150,000 each year.

Rushing this legislation through the Dáil and Seanad this week is an unnecessarily combative move. Union members should have been given the time to decide on the Haddington Road agreement without these bullyboy tactics.

Sinn Féin has submitted several amendments to this legislation for Committee Stage that will target pay at the top, reduce gold-plated pensions and politicians' pay and perks, as well

as protecting low and middle income workers. Bhí muid ag caint an tseachtain seo caite ar na tuairiscí sna meáin idirnáisiúnta nach bhfuil comhlachtaí ollmhóra áirithe ag íoc dóthain cánach. Níl aon fhadhb ag lucht an Rialtais dul i ndiaidh na hoibrithe bochta, ach níl siad sásta dul i ndiaidh na ollchomhlachtaí ata ag déanamh an t-uafás airgid. Ba chóir dóibh é sin a dhéanamh seachas dul i ndiaidh na gnáthoibrithe.

**Senator Paul Bradford:** I welcome the Minister to the House and thank him for bringing forward this legislation for our consideration. One factor in Irish politics is that by the time we get to deal with legislation in this House, the debate has more or less concluded on the outside. We need a better and more substantive way of discussing major matters of financial importance. That is a debate for another day, however.

As we try to bring about some degree of hope and confidence to the economy and down to the citizens of our Republic, we cannot ignore from where we have come. Sometimes it is easy to forget that it is little over 100 weeks ago since the Government took office at a time when our country was almost financially bankrupt, entirely devoid of any sort of political leadership and every citizen was genuinely fearful not just about their own economic position but the very plight of the country and its financial independence. All sides of the House must agree that this type of thinking has fortunately changed. The public is not lighting bonfires on street corners but there is a degree of stability and an increasing degree of confidence that everyone must welcome. That is the backdrop to this debate about our public sector.

It goes without saying that every single elected politician and citizen fully supports our public sector and the work which it does. We would be doing a great disservice to our public sector and the tens of thousands working in it if we did not concentrate on the fact that we need to ensure there are suitable future careers for all who work on our behalf in the public sector. We cannot pretend there is no tomorrow and continue with certain salary and pension levels when we know they are unsustainable. We must have realism in this debate. We have one of the best educated public sectors across the globe. They know as well as we do the financial plight of the country. Everyone appreciates that no Government wants to do what this one has been obliged to do over the past two years. It would be lovely to believe that this is the end of it and all gardens are rosy but it is not as simple as that.

We must ask about the language not just of this debate but of the whole economic debate over the past 18 months. Obviously, if I were in opposition I would keep using words such as “austerity” to bring about a mindset of doubt, fear and concern. Our challenge must be to move beyond that language of austerity and point out a route of progress and hope. What is austerity?

**Senator Trevor Ó Clochartaigh:** The Senator should ask the Minister for Social Protection, Deputy Burton that.

**Senator Paul Bradford:** Certain words take hold in the language of politics for several years and then they disappear. The big word at the moment is “austerity”. What some call austerity is what others would call a genuine attempt to balance the books. In every household, people are trying desperately to live within their means, struggling to do so. Sometimes they have to borrow to make ends meet but are still trying to live responsibly within their means. That is what the Government is trying to do too. If one wants to call it austerity, that is fine. However, the creation of negativity might generate short-term political gains for a few but it does very little for the citizens. Let us move beyond austerity and be more positive.

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Extraordinary work has been undertaken in the course of the Haddington Road agreement negotiations. Unions, as one would expect, have not always been united as there is no perfect or unitary solution when it comes to economics. There is a genuine effort, the fruits of which we see with this Bill, to bring about a public sector agreement which is sustainable and over which everybody can stand. In that sense we must support this agreement.

Austerity, housekeeping and bookkeeping are one important side of the equation. Nationally, the Government must look at the other side of the balance sheet with the cost of living endured by our citizens. We must make more strident and powerful efforts on health care, transport and energy costs. All the salary increases in the world are of little benefit if we cannot contain and control the cost of living. The Government has no choice but to take income from people in this Bill. We must also make the same effort to tackle costs. The Government must set aside a significant amount of political time over the next months to challenge the costs base in this country. We seem to be refusing to tackle it head on and give people some degree of hope on the spending front.

I wish the Minister well in his efforts with this legislation. We all know we are slowly but surely bringing the country around. I should not say "A lot done, more to do". However, 100 weeks ago this country was devoid of all hope. At least there is some degree of confidence now.

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I welcome all the contributions from every side of the House. Each Member brings his or her own views, passionately and fairly held in all these debates. Obviously, I do not agree with them all. These are difficult times for everyone and it is difficult for me as a Labour Party Minister to bring this legislation to the House. It is the right thing by our country, however.

Many Members referred to my party. I was privileged to be a part of the team that negotiated the programme for Government. I was under no illusions about exactly the backdrop that Senator Bradford just laid out and how awful the country's circumstances were at the time. There was a real doubt in all our minds if there was a sustainable path out of that mire without total calamity. When we see what has happened in Greece and Cyprus or the pressures in Portugal, we understand how close to disaster this country was. The Labour Party made a decision to roll up its sleeves to do its best. We knew it would be much easier to be the largest party in opposition and do the critique from the safety of the bleacher seats and let others try to tackle the disaster. Instead, we opted for government to tackle the problems in a way that would mitigate the impact as best we could on the most vulnerable. When we will ask the people to decide on that, not our critics, I believe we will get a fair hearing.

The cuts in core pay for those over €65,000 and the cuts in pensions are all unpalatable but necessary to cut a pay bill that is in excess of €18 billion. I came to that conclusion last year and I opened the books to the public sector unions. One of the parting gifts from the last Fianna Fáil Government was a profile of cuts over time but it had unallocated cuts - a lovely phrase - where it had not determined where those cuts should fall. If we had followed that Government's path, it would have meant an additional €1.5 billion in social welfare cuts this year, so the spend on social welfare would have been €18.5 billion rather than €20.2 billion. We still would have had to find other unallocated savings and, bluntly, I did not think it was morally right to go back to the well again. If one takes social welfare, health and education together, one can see that they make up over 80% of everything we spend. If one adds in justice, the figure is 87%. It is really difficult to make savings in these areas, as they have an impact on people's lives. Therefore, when one considers that payroll accounts for 36% of total expenditure, it is reasonable to ask for

payroll savings and that is what we did. We asked the trade union movement in a very honest way to engage with us to find these savings and it did. There were those who obviously were looking at each other within this negotiating structure. As I have been a trade unionist all my life, I know the dance and that there are trade unions - I will not reference them - which have never signed up to a collective agreement with the Government on these matters and have not been part of agreements from the very start. However, some of them are happy to embrace them once they are negotiated, but they will not vote for them. That is their tradition. By and large, however, people did embrace the process and negotiated. It was part of the process that some of them required a second round before they really began to engage. Part of the learning process involved seeing what was achievable by coming to the table and that the Government was not prescriptive about how the savings were to be made. That is the process that has concluded with the Haddington Road agreement and the necessary legislation that underpins it.

I will not go through the individual commentary. In respect of Senator Kathryn Reilly's comments, I have a headache listening to the same single transferable speech from Sinn Féin Deputies and Senators. If one says the same thing long enough, the facts can be completely changed. The notion that this is a tax on the low-paid is demonstrably facile and ridiculous. The proposal asks for a reduction for those earning in excess of €65,000. As a representative of the Labour Party, it is very hard to escape the working class because, apparently, €100,000 is the new threshold. One is a low-paid worker if one is earning less than €100,000. Few people in the country escape that figure. The CSO figures were published this week. The average private sector wage this year is €32,670, while the average public sector wage is €47,500. Even among those in the private sector who are relatively higher paid, €65,000 accounts for a tiny subset and makes up 13% of the public sector. To ask these people to make a contribution is demonstrably not to attack low and middle income earners. Please, therefore, make the argument, but couch it in reality, fact and truth.

I listened to Sinn Féin Members in the other House. Its strategy is that one does not need to cut anybody's wages but to place a cap on everybody earning above €100,000. That argument was repeated by Senator Trevor Ó Clochartaigh. However, the programme changed last night because suddenly something dropped somewhere and Sinn Féin believed one could not sustain a health service, certainly a public health service, with a cap of €100,000. For the first time last night in the other House Sinn Féin introduced a cap of €150,000 for one category of worker - hospital consultants. They would be allowed €150,000 before they would be capped.

It is interesting to look at what the impact of a cap of €100,000 would be. A total of 6,000 out of 300,000 earn more than that figure; therefore, the income saved would be tiny in comparison to what we require. With regard to the consequences, would one have principal officers wanting to be Secretaries General and take on all of their responsibilities? It was done in Albania where one has a single wage, no matter what one's job is, with the result that there is no differential. I was raised in a trade union household and believe in differentials where the craftsman is paid more for the skills he or she possesses. That is just the way economies work and this needs to be embraced.

I will reference a few more points. Senator Deirdre Clune spoke about the change in the public sector facilitated by Croke Park I. It was an extraordinary tool for change and I defended it for two years against all comers and, by God, I received a lot of criticism, particularly in the Sunday newspapers, for defending the public service and public services. However, I had come to the conclusion that we needed these changes because of the inevitability of the economics. We could not go back to the same well to seek further reductions, nor could we continue to bor-

row at the rate of €1 billion per month. It was unsustainable. Please God, our debt will peak this year at 123% of GDP, which most people regard as unsustainable. Most economists - we have a very distinguished one in our gathering today - acknowledge that this is an unsustainable level. Even when we get to a deficit figure below 3% by 2015, we will still be borrowing money. We need to give the next generation some chance. Our legacy is bad enough with regard to what happened to the economy in the past decade without continuing to pile on debt for it to try to unravel in the future. Let us be realistic about what we need to do and ask people to make a contribution according to their ability to do so. Above all, let us be truthful and honest.

I know that politics is often a game in which people look for political advantage. I might have said this in the House before. I was not long in the job when I met a very distinguished economic figure whom I will not reference. He came into my office and said, "You know you have the worst job in Europe." I said, "Thanks very much," just in case I was not daunted enough already by the task ahead. However, I was and still am honoured to do it. It is not out of a sense of arrogance, but if somebody else wants to take it tomorrow, I will not cry salty tears. I will do the job to the best of my ability for as long as I am entrusted by the Oireachtas to do it.

We have travelled 85% of the way and more. We can talk about the macro-economic figures, but it will take a long time for them to impact on ordinary people because we are still taking money out of people's pockets through this legislation and imposing additional taxes because our tax base collapsed or the pressures on public services increased exponentially because more people were in receipt of unemployment assistance. In addition, 500,000 more medical cards were issued than were issued at the peak of the boom; therefore, the demands on services have never been greater and the resources available to meet them are diminishing all the time. Squaring that circle is the greatest testament to the extraordinary and fine public service we have, which I wish to acknowledge. It gives me no joy to ask people to make a further sacrifice and I would not do it, if I did not think it was necessary to do so. I will unwind it as soon as economic circumstances permit. These measures are challenging for everybody, but they are economically necessary.

I want to see whether I missed out on anything that was said. I do not think so. One of the issues that daunted me the most since taking this job is the fact that a few in the school of politics want us to fail because they see in economic failure the potential for their own political success. I have no interest in that sort of politics. I would prefer for my party to cease to exist than to betray the people who expect us to serve our country. If we put ourselves forward for this job, let us do it in the best interest of the people who depend on us, particularly in times of crisis. The people will ultimately see through the notion that we measure the good of our country and the betterment of our people against short-term political gain will.

**Senator John Gilroy:** Well done.

**Senator Darragh O'Brien:** I asked a specific question on pensions. The Minister spoke about unwinding the position if things improve. What about the pensioners?

**Deputy Brendan Howlin:** Every Member of this House will have encountered considerable annoyance and a sense of grievance at people walking away from public life with fat pensions. In outlining some of the facts, I do not speak to the Fianna Fáil benches in any pointed way. It is interesting to consider the reductions for the current crop of politicians. In 2009, Brian Cowen earned €285,000 as Taoiseach. The new rate of pay for the current Taoiseach is €185,350 before the pay rate deduction which will reduce his income to €167,000, which rep-

resents a 41% decrease since 2009. Ministers have taken deductions of 36%. I will come to the pensions issue.

**Senator Darragh O'Brien:** The Minister is making a fair point and I am not trying to stop him.

**Deputy Brendan Howlin:** There is no longer an enormous gap between the pensions enjoyed by some who walked away and those who are currently serving as their successors, which is interesting. I felt we needed to ask for an additional contribution from those who have decent pensions. I am formally advised that there are three constraints in cutting these pensions. It has been determined by the courts that pensions are a preserved property right under the Constitution. The criteria for reducing pensions at the top is that a financial emergency obtains - I think we can sustain that argument - and that the reduction would make a significant contribution to resolving that emergency. The take would not be sufficiently significant to justify targeting a tiny number of people. Finally, it must not be discriminatory in targeting a tiny group of people.

We needed a reasonable spread if we were to do this in a fair and proportionate way. If we are considering pay reductions for those currently at work and earning €65,000, half of that is €32,500. That is a high pension. Only 22% of public servants have pensions of that amount or greater. These are the people I have asked to make a contribution. The contribution is small at the margin, at 2%, and nobody will be asked to go below €32,500. The rate ratchets up to an additional contribution of 10% at the top, which is reasonable. I introduced an additional take of 20% for those earning more than €100,000 in the Financial Emergency Measures in the Public Interest Act 2011. The deduction will be brought to 28% with this Bill, which is sustainable within the confines of the Constitution. It is reasonable to ask that such a contribution be made.

Clearly pensioners were not directly involved in the talks. I did not meet with them or anybody else until the talks concluded, other than some of the principals of the Irish Congress of Trade Unions. I did not meet individual groups, such as gardaí, but I wanted to meet the pensioners once the talks had concluded. My officials had a long meeting with them first and I subsequently met them on Monday to go through the Bill and explain my reasoning. I will not suggest they were happy but I think they understood the reasons. An unanswerable case can be made for an alliance to be formalised so that we are not dealing with associations of retired gardaí, nurses and civil servants separately. I think they will coalesce into a formal alliance and I have guaranteed that I will deal with them as Minister if that happens not only in respect of pension matters but also about how this can be unwound. I have written formally to them to give that commitment.

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

The Seanad divided: Tá, 27; Níl, 16.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Bradford, Paul.	Byrne, Thomas.
Brennan, Terry.	Cullinane, David.
Burke, Colm.	Daly, Mark.
Clune, Deirdre.	Leyden, Terry.
Coghlan, Eamonn.	MacSharry, Marc.
Coghlan, Paul.	Mooney, Paschal.

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Cummins, Maurice.	Norris, David.
D'Arcy, Jim.	Ó Domhnaill, Brian.
D'Arcy, Michael.	Ó Murchú, Labhrás.
Gilroy, John.	O'Brien, Darragh.
Hayden, Aideen.	O'Donovan, Denis.
Healy Eames, Fidelma.	O'Sullivan, Ned.
Henry, Imelda.	Walsh, Jim.
Kelly, John.	White, Mary M.
Landy, Denis.	Wilson, Diarmuid.
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullen, Rónán.	
Mullins, Michael.	
Noone, Catherine.	
O'Keeffe, Susan.	
O'Neill, Pat.	
Quinn, Feargal.	
Sheahan, Tom.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Ned O'Sullivan.

Question declared carried.

*Sitting suspended at 4.40 p.m. and resumed at 5.30 p.m.*

### **Financial Emergency Measures in the Public Interest Bill 2013: Committee and Remaining Stages**

#### SECTION 1

**Senator Kathryn Reilly:** I move amendment No. 1:

In page 4, lines 28 to 36, to delete subsection (2).

One of the central elements of the legislation is the proposal to freeze the increments of public sector workers who do not sign up to the agreement. I raised this on Second Stage and

I will not go over the same ground again. I do not have any expectation that the Minister will withdraw this threat but I cannot allow the opportunity to pass without trying to amend this provision and hoping he will take this on board.

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** The amendment seeks to delete the definition of “increments” in section 1(2). It is a simple but essential element of the legislative proposal for increments in section 7. The Parliamentary Counsel has set out clearly what is the incremental scale and this cuts through much of the rhetoric about it. The legislation sets out an essential definition of “increments”, which are dealt with later in the Bill and are an essential part of its architecture.

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

Amendment declared lost.

Section 1 agreed to.

## SECTION 2

Amendments Nos. 2 to 5, inclusive, not moved.

**An Cathaoirleach:** Amendments Nos. 6 and 7 form a composite proposal and will be discussed together.

**Senator Thomas Byrne:** I move amendment No. 6:

In page 6, line 26, after “€185,000” to insert “but not over €200,000”.

I object to the ramming through of the legislation but I would like to deal with more substantive issues on the section and, therefore, I will withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment No. 7 not moved.

**An Cathaoirleach:** Amendments Nos. 8, 9 and 26 are related and will be discussed together.

**Senator Thomas Byrne:** I move amendment No. 8:

In page 6, line 35, after “may,” to insert “by way of regulation by the Minister”.

This section confers extraordinary powers on the Minister to change the terms and conditions of public sector workers. Our amendment seeks to ensure the Minister does this by way of regulation. These powers are unprecedented and provide for different classes of public sector worker to be treated differently at the whim of the Minister of the day. The amendment seeks to ensure the decisions he or she makes are done in a much more formal way. I seriously object to this and other provisions in the section.

**Senator David Norris:** The Bill is misnamed because, as I tried to point out on Second Stage, an emergency is something that happens swiftly and does not recur. Therefore, the entire Bill is fudged. I would like to put on record something I said to the Minister following the suspension. I watched his contribution in my office and he made a strong speech. I would like my compliments to remain on the record because it was clearly heartfelt and powerful, but I do

not agree with him, particularly in regard to this section. We are discussing a situation in which the Minister can tear up agreements, including any statute or other document-like effect of a university or other third level institution, any circular, instrument or other document, any written agreement and contractual arrangement or any verbal agreement. Basically, the legislation is adopting the old Sam Goldwyn-ism that a verbal contract is not worth the paper it is written on. This is a dangerous and sinister power. Most people would trust this Minister with it, but who knows what is to come in the future? As legislators we have to be very much aware of that, because these are swingeing powers.

This is one of the provisions that concerns and worries me about the Bill, because I have always naively believed in the rule of law and, for that reason, I find it rather painful to contemplate the current activities of the US President, Mr. Obama, who is a friend of Ireland and a decent man. However, he has escalated by a factor of ten drone attacks, which completely suspend the rule of law. We are not talking about taking somebody's life here, but it is a serious thing to undermine the law, and by giving people the power to abrogate agreements and contracts, the Minister is undermining the rule of law. It is part of a worrying concentration of power in the hands of the Executive.

The Minister referred to the section and the amendments in his contribution. He said the provisions were not normal, and I agree with him about that, but he also said they will not be permanent. I am sure in his heart he may believe that, but I have never known a government - even a democratic, decent government - to willingly yield powers it has accumulated. Even if the Minister wanted to, the departmental officials would be loth to allow him. I do not refer to the present occupants of the seats behind the Minister. However, it is extremely difficult to reverse such measures. The Minister tried a little flummery when he said that would include office holders, "in particular the Judiciary, whose pay terms are determined not by a Minister but by the Oireachtas." Of course they are determined by the Minister. We are rubber stamps. The other House is a complete rubber stamp, as was shown yesterday. We might have a little bit more roughness around the edges but the Government will try to get rid of us soon and it has a specially crafted ordered-in-advance rubber stamp, suggested by a well-known public figure - one wonders who - who will preside over this mini-Seanad, a type of yellow-pack Seanad-----

**An Cathaoirleach:** On the amendments.

**Senator David Norris:** I am speaking about the concentration of power which is-----

**An Cathaoirleach:** On the amendments.

**Senator David Norris:** I am absolutely 100% on the amendments and I agree with all of them. This mini-Seanad well have nothing but civil servants on it and people stuck in by the Taoiseach, Deputy Enda Kenny.

**Senator Sean D. Barrett:** Yes.

**Senator David Norris:** He is the one bellyaching about the fact that we are not properly elected; he stuck in 11 Senators, so he should know about it. Now he wants to stick in the whole bloody lot. Come on. I am worried. I am being a little light in my touch but the concern is quite genuine and is right through government. I am very worried about what is contained in these sections.

**Deputy Brendan Howlin:** I understand amendments Nos. 8, 9 and 26 are being discussed.

Section 2B of the Bill provides that an existing power to fix terms and conditions may be exercised by the relevant employer or Minister of the Government so as to result in less favourable remuneration other than core salary or increased hours for the public servants concerned, notwithstanding any of the terms of any enactment, contract or other document provided for. This is what it states. It is necessary to get the required savings. I hope these powers will not be exercised in the immediate future and that we will have an overarching agreement on the terms negotiated and brokered by the Labour Relations Commission and encompassed in what is called the Haddington Road agreement.

Amendment No. 9 is inconsistent with the terms of the section and cannot be accepted, as it refers to a pay reduction. Amendment No. 26 seeks to amend section 8, which provides a power to the Minister to exempt individual public servants or groups from an increment freeze on limited and exceptional grounds. I explained on Second Stage that it is important there is a residual power for the Minister to exempt individual public servants where an unintended anomaly is created in the circumstances. This is a residual power which is there.

I must tell Senator Byrne that this replicates language already in the original Financial Emergency Measures in the Public Interest Act, which was supported by the Senator in a past existence.

**Senator David Norris:** Senator Byrne was not here.

**Senator Thomas Byrne:** I was not here.

**Deputy Brendan Howlin:** Not in this particular Chamber, but in another.

**Senator David Norris:** That is what I thought; he was an unnoticeable.

**Senator Thomas Byrne:** Will the Minister set out where in the legislation these powers are? That is my next question.

**Deputy Brendan Howlin:** In the Financial Emergency Measures in the Public Interest Act.

**Senator Thomas Byrne:** The Act states that a power conferred by or under any enactment to fix the terms and conditions may be exercised as follows in subsections (a) and (b). What are these Acts? The Financial Emergency Measures in the Public Interest Acts do not allow the Minister to increase pay; that it is for sure.

**Deputy Brendan Howlin:** The Acts are in the recital of the Bill itself.

I wish to deal with the contributions of Senator Norris. I know Senator Norris takes exception to the notion of an emergency, as if an emergency were an event. We have used emergencies in the past. When Dick Spring was Tánaiste he concluded the last Emergency, which lasted from the end of the 1930s. We took emergency powers when there were very discordant happenings in the North of the island-----

**Senator David Norris:** I cited that.

**Deputy Brendan Howlin:** -----and all of this is true.

There is a real and extant emergency and the terms of this are in the preamble and recital to the Bill. It sets out the issues, some of which are that we are still availing of a financial assistance programme. It is my expectation as well as my hope that we will shortly be exiting

the financial assistance programme. I do not envisage that these are long-term requirements. The entire financial emergency measures in the public interest architecture is by definition in response to a financial emergency which, with the resilience and forbearance of the Irish people and the determination of both parties in government, we will map our way out of in a decent and narrow horizon.

I thank Senator Norris for his kind remarks about my concluding comments at the end of Second Stage. I was responding to an attack on my party and I should have stated that I honestly believe what was done to put our country back on track could not have been done without the coming together of the two largest parties in the State at that important critical juncture in history, because of the external pressures. Much lesser economic pressures existed at other times when there was a tiny majority, particularly in the other House, and it was very difficult to do what was necessary. In a piece I wrote recently for one of the national newspapers I stated that in years to come, how Ireland got out of the crisis will be written up as importantly as how we got into it, and it will be a legacy not only of the two parties in government but also of the forbearance of the Irish people, who endured when others took to the streets elsewhere.

I will not accept these amendments. This is the fabric that is required. The powers to make these alterations are required to make the savings which are essential to contribute to our economic recovery.

**Senator Thomas Byrne:** The Minister has not said why it is not possible to do it by regulation.

**Deputy Brendan Howlin:** I apologise; I meant to touch on that point.

**Senator Thomas Byrne:** I recognise that the Government is doing much that needs to be done; we do not always agree with the exact direction of it, but the figures overall are agreed. The Government constantly speaks about the external pressures that existed when it came into power. At some point will the Minister list the external pressures he and the Tánaiste, Deputy Gilmore, keep speaking about that existed subsequent to the signing of the IMF agreement? Effectively, the State was bankrolled by the IMF in November 2010; whether we like it or not, this is what happened. The Government was following a programme and has certainly taken a political hit for taking certain actions. As I stated, we do not agree with the method, but we accept that the deficit must be reduced.

The other point to remember is that when the Minister says he is 85% of the way there, 60% of this 85% comprises measures the previous Government brought into force which he opposed at the time, although he acknowledges now that they were the right thing to do. The crisis resulted in unpalatable policies and Fianna Fáil tried to be as fair as possible.

I have some sympathy with what Senator Norris said, not with regard to whether we have a financial emergency, because we do, but with regard to whether the Bill qualifies as a financial emergency Bill. Senator Norris has raised interesting points. I am not sure whether I fully agree with him, but the issue of allowances has been kicked around for the past year and there does not seem to have been any emergency or urgency about how the matter was dealt with. There was an issue about reducing allowances but it did not happen. This was followed by the Croke Park II talks, which collapsed. Then we had the Haddington Road agreement, and now, after all of this, we have the Bill. One would question whether this qualifies in the same way that the previous measures qualified, although the savings and the impact on people were much

greater. The then Government tried to be as fair as possible, but the impact amounted to approximately €2 billion before tax. I may be mistaken on this figure. There were significant hits for the public, but the measures were taken in the context of an immediate emergency, because if we had not done it the country would literally have gone to the wall in the following weeks. That is not the exact position we are in now.

I accept that savings must be made in the public sector pay bill, but this should be done as fairly as possible. I commend those workers who voted against Croke Park II because, by and large, those who brought it down were those who were most affected by the unfair provisions. These were not just about allowances but also about the working week. We certainly came across many of them. Senator Norris has raised interesting points about the Title of the Bill, which lead us back to why it is being rammed through in this very quick fashion. Parliament is being used as a rubber stamp and Ministers will have these powers. I cannot find a copy of the 2009 Act because my phone is playing up, but if the Minister tells me the exact same power to amend terms and conditions is in the 2009 Act I will be happy. The section refers to any other enactment under which there is the power to change terms and conditions. If the Minister persists with this, I suggest that the best way to do so is by way of parliamentary regulation. However, I will listen to his remarks on the matter.

**Senator David Norris:** The Minister is helpful with his explanations, but I am still concerned for a number of reasons. He stated that these powers already existed, presumably under the other emergency legislation that started in 2009. I have a feeling that I voted against them, although I am not 100% sure. I know that I voted against benchmarking and the bank guarantee.

In any case, the powers remained dormant until this legislation. This Bill is the first to give them real teeth. They are like the dormant rights in the Constitution or like dark matter - they are anti-rights that are now being drawn out of previous legislation. The Minister proposed a dangerous principle when he stated that, although this was regrettable, we needed to do it. That is Machiavelli - the ends justify the means.

No one doubts that this is a serious situation, but it is not an emergency. If one suffers from tuberculosis, it is a serious situation, particularly given the fact that certain strains of TB have become resistant to normal antibiotic treatments. However, it is not an emergency, and neither is this. We are not living through an emergency. Rather, we are living through a chronic situation that was caused by a total failure-----

**An Cathaoirleach:** The Senator is straying from the amendments.

**Senator David Norris:** I am not.

**An Cathaoirleach:** The amendments are about doing this by way of regulation.

**Senator David Norris:** Exactly. I believe that I am discussing that idea, as we are being told that these powers are justified by the emergency. There is a serious situation, but it is not an emergency. The real cause is the dysfunction of the entire system. I sincerely hope that the Minister is right. I said the same to Brian Lenihan when he sat where the Minister is sitting now. Sadly, he proved not to be right. I hope that we will have articles written about how wonderfully we got out of our situation, but I doubt it.

This brings me back to the concentration of powers under this section, a matter that is addressed by these amendments. It is worrying that the Judiciary has been included. It should

have been exempted. When the people kicked out the committee of inquiries referendum, the Judiciary was handed over as a sacrifice. Many lies were told. Some 85% of the Judiciary's members gave up their increases voluntarily, yet we were told that none of them had. I am not accusing the Minister, but there was uninformed commentary everywhere.

I remain concerned. The Minister asserts that he is setting this Bill down honestly and openly across the table, but is it honest and open when their hands are twisted behind their backs in a half Nelson? If they can be threatened with the removal of increments and the tearing up of their contracts, that is what this is.

It came from the Minister's heart when he stated that we owed our paymasters, the taxpayers and the citizens nothing less. I wonder whether those are three separate identities. To me, our paymasters are not in this country, as we have lost our independence.

**Senator John Gilroy:** Correct.

**Senator David Norris:** The Minister may mean that the taxpayers are our paymasters, but they no longer are. Neither are the citizens of this country our paymasters. Unfortunately, our paymasters are located elsewhere and are the interests of capital. I oppose that. We need to find a more nuanced system, one that is a hybrid of capitalism and socialism.

**Deputy Brendan Howlin:** I will try to address the issues raised. We can have a philosophical discussion on the aftermath of the economic collapse at another time.

**Senator Thomas Byrne:** It was in response to the Minister's comments.

**An Cathaoirleach:** We are on amendments Nos. 8, 9 and 26.

**Deputy Brendan Howlin:** I will respond to this extent: it may be suggested that, once the previous Administration signed up to the troika deal, the job was Oxo, but that was only the start of our woes. As to the notion that it did all of the heavy lifting, it enacted-----

**An Cathaoirleach:** We must stick to the amendments.

**Deputy Brendan Howlin:** If charges are being made,-----

**An Cathaoirleach:** I will try to control the charges.

**Deputy Brendan Howlin:** Let me respond to them.

**Senator David Norris:** We would be interested in the Minister's comments.

**An Cathaoirleach:** We must stick to the amendments and get through the Bill.

**Deputy Brendan Howlin:** Let me respond to the charges that were made, as it was stated that 60% of the heavy lifting had been done before we entered into office. Yes, the 2011 budget was passed, but it was not implemented. The previous Government passed the most draconian budget known on its way out the door. In advance of the election, the leader of my party stated on national television that we would implement that budget. We did not go into the election on false pretences. One can recreate history, but that is the truth. Let us deal in fact and truth.

I stated that these powers replicated the measures in the original Financial Emergency Measures in the Public Interest, FEMPI, Act. I do not know if Senator Byrne's mobile telephone is

operating again, but I will point him to section 2(6) of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009, which reads:

This section has effect notwithstanding--

(a) any provision by or under--

(i) any other Act,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any circular or instrument or other document,

(iv) any written agreement or contractual arrangement,

or

(b) any verbal agreement, arrangement or understanding or any expectation.

This measure was set down in the enactment passed by the previous Administration with the support of the Senator opposite.

I wish to pick up on Senator Norris's point about my putting trade unions in a half Nelson. As a country, we are in a half Nelson. I can pretend that we are not or I can wish up a new hybrid social model. I have strong views in that regard. Unfortunately, I must live with the hand of cards that I have been dealt. Until we exit the programme, we have only one funder - the troika - that will give us money at anything like an affordable rate. The troika has set down hard conditions. We did not negotiate them, but we have renegotiated many of them to their improvement. However, we must live with other conditions that constitute a half Nelson on us all until we rid ourselves of it and resume normal funding. Hopefully, that can be achieved soon. It is measures such as this section that will enable us as a people to get out of that half Nelson.

As to fairness, the pay element of reductions in this legislation starts at €65,000. The previous Government started pay reductions at zero. Every euro one got was impacted upon. This Bill is more nuanced and fairer and has been negotiated. I believe and hope that it will be supported by a significant number of public servants, but that is a matter for them.

**Senator Thomas Byrne:** The Minister has something of a cushion, in that he can leave the direct pay cuts to the higher paid. He is not trying to save as much money as was sought under the previous legislation. I am trying to get a copy of the Act, but I would be grateful if the Minister could confirm that the section he quoted-----

**Senator David Norris:** I shall pass it to the Senator.

**Senator Thomas Byrne:** That would be helpful. I do not know whether it relates to the power of a Minister, as his quote did not mention that. His quote referred to tearing up contracts and I accept that that was what the Act permitted. We will accept the Minister's comments, but he did not answer the question as to why these measures could not have been made by way of regulation, which is a different beast from a ministerial decision.

**Senator David Norris:** I will make a final comment and then we will move on. This is one of the Bill's most important sections and I am grateful to the Minister for his clarity and

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honesty and for placing on the record the subsection in the 2009 Act. This section is bad, but that subsection was worse. They are both damnable. If I was around, and I must have been, as I voted against the bloody thing-----

**Deputy Brendan Howlin:** I believe the Senator did.

**Senator David Norris:** I am “ag’n the Government”, whatever its complaint.

**Senator Thomas Byrne:** Senator Norris would not have been himself otherwise.

**Senator David Norris:** I thank the Minister. His information has been helpful. My instinct is 100% against this provision, but I would be overwhelmed and it is time to move on and face the reality.

*6 o'clock*

The arithmetic does not stack up to give us a chance, but at least we will have put the arguments on behalf of the people, just as the Minister’s heart is on their side. I do not envy him his job. When I was in my office, I heard him indicate that he had been privileged and honoured to be asked to do his job, but, on the other hand, if somebody else wanted to take over, he would not weep bitter salty tears. I can understand this. I am concerned about this section and the increase in powers for which it clearly provides. I take it the Minister has acknowledged in his powerful comments about the half-Nelson that our paymasters are outside the borders of the country.

**An Cathaoirleach:** Does the Minister have anything further to add?

**Deputy Brendan Howlin:** We are addressing that issue. For the foreseeable future, like all countries, we will be borrowing money and it depends on who loans us the money. In normal market circumstances we borrow the money and simply pay the interest; it would not come with a string of conditions attached that would determine fiscal policy. We want to get rid of that element soon.

**Senator David Norris:** The troika members are our paymasters.

**Senator Thomas Byrne:** I will make a general point now that the issue has been raised by Senator David Norris. I blame the Fianna Fáil Party for the language used. The Senator wants to remove the influence of the troika, as we all do, but we should not forget that the troika is made up of public sector bodies. The IMF is a United Nations organisation and the European Commission is effectively part of our democracy. We will be delighted to get back to the bond market, but who is in that market except for private sector financiers and bankers? That is the dichotomy. In the last few years of the last Government the IMF was presented as a bogey man, which was a major failure. It should have been seen as a rescue package. However, we are where we are, as was said a lot at the time.

Question put:

The Seanad divided: Tá, 28; Níl, 16.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Barrett, Sean D.	Cullinane, David.

*Seanad Éireann*

Bradford, Paul.	Leyden, Terry.
Brennan, Terry.	MacSharry, Marc.
Burke, Colm.	Mooney, Paschal.
Clune, Deirdre.	Mullen, Rónán.
Coghlan, Eamonn.	Norris, David.
Coghlan, Paul.	O'Brien, Darragh.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	O'Sullivan, Ned.
Cummins, Maurice.	Ó Clochartaigh, Trevor.
D'Arcy, Jim.	Ó Domhnaill, Brian.
D'Arcy, Michael.	Power, Averil.
Gilroy, John.	Reilly, Kathryn.
Hayden, Aideen.	Walsh, Jim.
Healy Eames, Fidelma.	White, Mary M.
Henry, Imelda.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Donnell, Marie-Louise.	
O'Neill, Pat.	
Sheahan, Tom.	

Tellers: Tá, Senators Paschal Mooney and Ned O'Sullivan; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Question proposed: "That section 2 stand part of the Bill."

**Senator Thomas Byrne:** During our debate on amendment No. 8 I made the point that section 2 gives the Minister very novel powers and takes power away from Parliament. I thank the Minister's officials for briefing me during the Vote and it proved useful. Part of the reason that I called for a Vote was to seek clarification.

The Minister did tell me that the 2009 Act contained a similar power or provision. It does not. I have been advised that there is a general power for Ministers to vary terms and conditions

and I accept that. In my view, it is extremely rare for powers to be used in an adverse manner or for contracts to be interfered with by anybody.

I have a difficulty with the section, apart from its novel value for giving powers to a Minister to make decisions on an ongoing basis. If the Minister already has these powers then why must we enact them today? The provision acts as a threat and hangs over people. The Haddington Road agreement made a provision for the Minister to make changes but section 2 hangs over the people who will vote on the agreement. The provision acts as a threat and that is wrong for two reasons. First, it is wrong for a legislative threat to be made to ordinary workers and their families. Second, it is wrong to give Ministers these expressed powers in legislation. The Oireachtas can enact Bills to cut pay. We do not like doing it but sometimes we are forced to do so. The quote the Minister cited the last time related to the 2009 Act and not to a specific power contained therein for Ministers. In fact, there are no specific powers contained therein for Ministers analogous to the power that is being granted in the section. There is a difference. It is wrong to give Ministers these powers and it chips away at democracy.

Another example of chipping away at democracy are the changes being made to local area boundaries following the submissions made and results provided by the commission. The Government has adopted the constant tactic of chipping away at democracy and wants to take powers away from Parliament to give them to Ministers. It wants to abolish the Seanad but appoint a group of experts who are its cronies. The Government has moved away from its promises. Significant adverse changes to the terms and conditions of employment of public sector workers, whether in regard to core pay or allowances, should be put before the Oireachtas, if applied on a general basis. I object fundamentally to the powers being granted here.

**Deputy Brendan Howlin:** The reason the 2009 Act had general application was that it was indiscriminate - it simply cut everybody's pay from €0. What I am trying to do is to take a much more nuanced approach. The only pay cut will be that in excess of €65,000. I want to give protection to those who want to register agreements with the Labour Relations Commission in order that we have the flexibility to deal sector by sector in a way that is captured in this section.

The Senator was quite happy to have an overarching let us cut everybody Bill but not a more nuanced one, which states we will be discriminatory and will focus on those who can afford best to carry the burden, that is, those earning more than €65,000, and where there is a buy-in to a freely negotiated brokered deal under the Labour Relations Commission and where Ministers at sectoral level will have the power to deal with it sector by sector. The power already exists and my officials explained it to the Senator. For example, in the case of the HSE, the legal powers are devolved under the Health Acts to the HSE to make those decisions. I want clarity that it resides with the Minister.

There was a High Court decision yesterday which determined that a decision made by the Minister for Education and Skills was *ultra vires* because that power should have been properly exercised by the VEC and not the Minister. For that level of clarity in regard to workers generally, it is important this provision is here.

As I said, I hope there will be an overarching agreement with the Irish Congress of Trade Unions which will make all of this moot because the full deal, as worked out by the Labour Relations Commission and negotiated with trade unions, will apply across all sectors.

**Senator David Norris:** I will vote against the section because it contains a fundamentally

coercive element, which concerns me. It undermines democracy when we say to people that they can vote but that if they do not vote the way we want, we will give them a slap. That is basically what is in this section. The Minister may say we are in difficult times and we need to take drastic measures. He is well able to speak for himself and the record will show what he said. I should not try to put words in his mouth and I do not propose to do so but that is what it appeared to me to be. I do not think anybody could deny that this is a coercive section and it is intended to undermine the freedom of individual trade union members and trade unions groups to vote in the way they want. They will be slapped and financial penalties will be imposed on them if they do not agree. I cannot bring myself to agree with this.

**Senator Thomas Byrne:** In regard to the specific items agreed in the Haddington Road agreement - for example, Sunday pay for those affected by it - if it turns out later in the year, or early next year, that the Minister is not getting the savings he requires, could this section be used by various Ministers? If the Minister for Health has a deficit this year, as he did last year, could he forget the provision in the Haddington Road agreement, which guarantees Sunday pay, and cut it under this section?

**Senator David Cullinane:** I agree with the previous speakers. I was not going to involve myself in this debate as I was waiting until the next section but there is a point to be made about the extraordinary powers which have been given to the Minister and the Government in regard to these pay cuts and the other measures in the Bill. I am the workers' rights spokesperson for my party and part of my responsibility was to meet the various trade unions before and after the Croke Park II negotiations. The majority of, if not all, the trade union leaders we met, including those affiliated to the Minister's party, were very concerned about the very draconian measures which would be contained in this legislation. They labelled this as threatening legislation. They were also very concerned that their members were being coerced into voting for a deal which, essentially, was not in their best interests.

The Minister of State, who was here in the Minister's absence, said to wait to see the outcome of this vote. It is a possibility that the majority of workers might vote "Yes" but only on the basis that they are being coerced. They feel that if they do not vote for what is on offer, the Minister will impose what is in this Bill and then impose something even worse. That goes to the heart of this.

We had a discussion earlier on what might constitute low and middle incomes but if one is on a wage of €70,000 or €80,000, one's partner or spouse is out of work and one has three or four children, when one looks at the deductions and the net pay, it is not a massive wage. It is a comfortable wage but not a massive one. When one cuts such people's take home pay, it has an impact on the domestic economy and on their ability to be able to spend, which is one of the reasons we are not getting-----

**Deputy Brendan Howlin:** Sinn Féin has become very middle class.

**Senator David Cullinane:** The Minister said earlier one cannot escape the working class. I do not know whether he was including himself in not being part of the working class but I would look at it a bit differently.

**Deputy Brendan Howlin:** At €150,000, we are all working class, according to the Senator's definition.

**Senator David Cullinane:** I would look at it a bit differently from the Minister. I look at

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this on the basis of whether it is economically-----

*(Interruptions).*

**An Cathaoirleach:** Senator Cullinane, without interruption.

**Senator David Norris:** I thought I had escaped the working class but it seems to be all over the place nowadays.

**Senator David Cullinane:** As I said earlier, we can look back at a whole raft of promises the Minister's party made in opposition. The Minister raised the issue of us seeking votes.

*(Interruptions).*

**An Cathaoirleach:** Senator Cullinane on section 2.

**Senator David Cullinane:** The Minister is being entirely disingenuous. I know for a fact that if he was sitting where we are sitting now in opposition and this Bill was being brought forward by a different Government, he would not support it. I do not know any Bill which cuts the wages-----

**An Cathaoirleach:** Senator Cullinane on section 2.

**Senator David Cullinane:** This is about the section and the powers being given to the Minister. If a different Government brought forward a Bill such as this which gave the powers to a different Minister and a different Government, included provision to cut the pay of people on €65,000 and €100,000 and involved cuts to people's overtime rates and increments, the Minister would not support it. I do not remember the Minister supporting any such measures when he was in opposition or any Government budget either.

It is very frustrating for us at times when the Minister sits there and accuses my party of playing politics for opposing his policies. That is what the Opposition does and what he and his party did when in opposition. They voted against Fianna Fáil budgets and pay cuts in the public sector and cuts to the public sector generally. Now they are in government, they are doing exactly the same but are not prepared to accept any criticism or any charge of hypocrisy because they seem to think that if they do it, it is somewhat different. I will come back to some of those issues in the next section because it might be more appropriate.

**Deputy Brendan Howlin:** I will deal with some of the issues raised. The coercive issue raised by Senator Norris and others that if the trade union members do not accept this, the consequence will be worse. Let me be very clear. I believe in the principle of solidarity. If the employer opens the books and says there is a crisis and that he or she wants the workers to make a contribution to solving that crisis, it is not reasonable to allow some people to say "No", that they are a unique group and are to be exempted from it.

I do not accept Senator Norris's view of the Judiciary that some of the best paid people should be exempt.

**Senator David Norris:** I do not say that.

**Deputy Brendan Howlin:** It was right and proper-----

**Senator David Norris:** I must correct the Minister. What I said was that an incorrect

impression had been given that none of the judges, or a tiny minority, had accepted voluntary cuts - 85% did.

**Deputy Brendan Howlin:** The problem is that it should not have been a matter of choice for people on that level of pay when it was not a choice for others. It was important that the rule would apply to everybody. I do not think any section of workers can simply decide that the rest of the population can carry the burden and that they are exempt because they say so, with no consequences. That cannot be right. We must have the power to ensure that the claim that some should be immune from this is not allowed to sit. That is why this power is contained in the legislation, should it be required. My hope and expectation is that it will not be exercised at all because I am hopeful of an overarching agreement being reached with the Congress of Trade Unions. That, however, is a matter for individual unions and individual union members to determine.

In response to the specific question from Senator Byrne as to whether Ministers can vary the Haddington Road agreement, the answer is “No”. It will be a solemn undertaking by Government and it will not be a matter for the Minister for Education and Skills or the Minister for Health or any other Minister to tweak certain elements. The exercising of that power will have to be done with my consent.

I do not know whether I should allow myself to be drawn by Senator Cullinane again but I will make one comment. I remember, in advance of and immediately after the last general election, the leader of the Sinn Féin Party, Deputy Adams, saying that what we should do as a State was send the troika home and tell them to take their money with them. That was a brilliant economic strategy. It would have meant that would have had literally no public expenditure because our economy would have collapsed. We would not have been cutting pay but doing what collapsed economies do, namely, letting go hundreds of thousands of workers, closing schools, hospitals and so forth. While “send the troika home” is a lovely soundbite, it is economically illiterate. That was the basis on which the general election was fought.

It is important, as we emerge from the disaster that this Government inherited, that we have a clear sight of the pathway to recovery. As we, please God, enter into a better place, there will be many different versions of the truth. No doubt, Fianna Fáil will say that it was its own brilliance in bequeathing a budget to us that pushed us on the way or the fact that it spancellor us into a troika deal set us on the path to recovery, while Sinn Féin will have a different view of it all. We need to clearly and properly acknowledge the hard lifting that was done by the Irish people and the cohesion of two large parties, trusted by the people, above all else. Senators have spoken about broken promises but the one important promise, above all else, was that we would regain our economic sovereignty and return our economy to a safe place. That is a promise we are determined to keep.

**An Cathaoirleach:** Is section 2-----

**Senator David Norris:** I am sorry to interrupt but I wish to make one brief comment. The Minister has confirmed what I felt in what he said and I regret that. He appeared to suggest that people had no right to withhold their assent from these proposals.

**Deputy Brendan Howlin:** There has to be a consequence to it.

**Senator David Norris:** Yes, and that is precisely the point I am teasing out. If they do not have the right to dissent or if that dissent will lead to punishment, why give them that right in

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the first place? Why consult them? Why not just ram it through? The flaw in the argument, in my opinion, is that it suggests that democracy is discretionary and that is a dangerous road to go down.

Nobody would deny that this Government inherited a disaster. It was an absolute disaster and it was partly, though not entirely, manufactured by the previous Fianna Fáil Government. I was against every measure it produced that helped to lead us there. It was not entirely the fault of that Government but it was partly so. In that context, I have sympathy with the Minister but it seems to me that, implicit in the Minister's comments, is the idea that the democratic element of trade union negotiations is now discretionary. I do not think that should be the case. We will have to differ on this point. Indeed, we may even differ on whether that really is the Minister's position.

**Deputy Brendan Howlin:** It is not my position.

**Senator David Norris:** He says, very clearly, that it is not but I believe it is. We could argue about it all night. I am only a politician so I cannot be trusted. I am saying it now and will not speak again, but one never knows.

**Senator David Cullinane:** The Minister talked about consequences for people who are in trade unions who may vote against the Haddington Road agreement. The membership of the CPSU, for example, is mainly composed of clerical workers, many of whom would be in the low to middle income brackets to which I referred earlier and will not be in the over €65,000 bracket. The reason those workers will say "No" to this deal-----

**Deputy Brendan Howlin:** The Senator might let them vote.

**Senator David Cullinane:** I will let them vote. The leadership-----

**Deputy Brendan Howlin:** They must vote before the Senator can say what they will do.

**Senator David Cullinane:** The leadership of the CPSU is recommending a "No" vote.

**An Cathaoirleach:** I ask the Senator to speak to the section.

**Senator David Cullinane:** We will see what the outcome of the vote is but a "No" vote has been recommended, to put the point differently, because of the impact the agreement will have on those in the lower and middle income brackets not just in terms of pay cuts, but also the increment freezes, additional working hours and so forth. That is why the CPSU is recommending a "No" vote. I do not want to get into a Punch and Judy show with the Minister about what Sinn Féin or the Labour Party said at the last general election but he used the phrase "economically illiterate". That phrase was used by Fianna Fáil at the height of the Celtic tiger against my party and possibly even the Labour Party as well. I would remind the Minister that my party was not in Government before or after the Celtic tiger and our policies are untested. Therefore, to say that they are economically illiterate is a false charge. The Minister also referred to what Deputy Adams said after the last election-----

**An Cathaoirleach:** We are dealing with section 2 of the Bill.

**Senator David Cullinane:** If the Minister is allowed to make a charge, then I must be allowed to respond to it.

**An Cathaoirleach:** I am trying to keep everyone on the section before us.

**Senator David Cullinane:** I will finish on this point. He talked about-----

**An Cathaoirleach:** Section 2, please, Senator.

**Senator David Cullinane:** The Minister spoke about sending the troika packing. It was not so long ago that it was Frankfurt's way or Labour's way.

**An Cathaoirleach:** On the section, Senator.

**Senator David Cullinane:** What about that for a soundbite?

**Deputy Brendan Howlin:** I wish to be clear, in response to my friend and colleague, Senator Norris, that democracy is not optional. However, Senator Norris cannot get into his car and decide to drive on the right hand side of the road because that is his democratic right. Societies do not operate like that. There are consequences. One can exercise one's democratic right to absurdity.

**Senator David Norris:** I would not be jailed for trying to persuade the Government to introduce laws to change society-----

**An Cathaoirleach:** The Minister, without interruption please.

**Deputy Brendan Howlin:** People are perfectly at liberty to reject the Haddington Road agreement. At the same time, it is reasonable for me to say that we need to make savings, or rather, we must make them and this is what I propose to do. This is the democratic Chamber that will make a determination on that. The elected representatives of the people set out the law. No more than one can decide to drive on the right hand side of the road because one feels a flush of Americana, one cannot decide that one can reject this agreement without suffering consequences. It is not equitable, fair or reasonable-----

**Senator David Norris:** What would the consequence be of campaigning or voting to drive on the right hand side of the road?

**An Cathaoirleach:** Senator Norris has spoken on a number of occasions already. I ask him to allow the Minister to speak.

**Deputy Brendan Howlin:** It is not equitable, fair or reasonable to expect workers on the front line, for example, to carry the burden while others refuse to carry it with no consequences. We must lay out the savings that are required and negotiate to see if we can reach an agreement on that. Failing that, Government must govern because we must have a sustainable path and must ensure that there is pay and pensions for workers this year, next year and into the future.

**An Cathaoirleach:** Is section 2 agreed?

**Senator David Norris:** If I was driving on the right hand side of the road, I might end up with a black eye.

Amendment put:

The Committee divided: Tá, 9; Níl, 25.	
Tá	Níl

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Byrne, Thomas.	Bacik, Ivana.
Cullinane, David.	Barrett, Sean D.
Mooney, Paschal.	Bradford, Paul.
Norris, David.	Brennan, Terry.
Ó Clochartaigh, Trevor.	Burke, Colm.
O'Brien, Darragh.	Coghlan, Eamonn.
O'Sullivan, Ned.	Coghlan, Paul.
Reilly, Kathryn.	Comiskey, Michael.
Walsh, Jim.	Conway, Martin.
	Cummins, Maurice.
	D'Arcy, Jim.
	D'Arcy, Michael.
	Gilroy, John.
	Hayden, Aideen.
	Healy Eames, Fidelma.
	Henry, Imelda.
	Keane, Cáit.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Norris and Ned O'Sullivan.

Question declared carried.

Amendment No. 9 not moved.

Sections 3 and 4 agreed to.

#### SECTION 5

**An Cathaoirleach:** Amendments Nos. 10 to 21, inclusive, are out of order.

Amendments Nos. 10 to 21, inclusive, not moved.

Section 5 agreed to.

SECTION 6

Amendment No. 22 not moved.

**An Cathaoirleach:** Amendments Nos. 23 and 24 are out of order.

Amendments Nos. 23 and 24 not moved.

Section 6 agreed to.

NEW SECTION

**An Cathaoirleach:** Amendments Nos. 25 and 32 are related and will be discussed together.

**Senator Kathryn Reilly:** I move amendment No. 25:

In page 11, before section 7, to insert the following new section:

“7.—Section 2 of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 is amended by the substitution of the following Tables for the Tables in that subsection:

“Table 1

*Holders of certain offices and allowances*

Office	Reduction
President	Total annual remuneration shall be no more than €100,000
Taoiseach	Total annual remuneration shall be no more than €100,000
Tánaiste	Total annual remuneration shall be no more than €100,000
Minister	Total annual remuneration shall be no more than €100,000
Minister of State	Total annual remuneration shall be no more than €100,000
Ceann Comhairle	Total annual remuneration shall be no more than €100,000
Leas-Cheann Comhairle	Total annual remuneration shall be no more than €100,000
Cathaoirleach	Total annual remuneration shall be no more than €100,000
Teachta Dála	Total annual remuneration shall be no more than €75,000
Senator	Total annual remuneration shall be no more than €60,000
Oireachtas Committee Chair	100 per cent reduction of remuneration
Commission Members	100 per cent reduction of remuneration
Government Whip allowance	100 per cent reduction of remuneration
Assistant Government Whip allowance	100 per cent reduction of remuneration

Whip to the opposition parties	100 per cent reduction of remuneration
Assistant whip to the opposition parties	100 per cent reduction of remuneration
Leader of the House (Seanad) allowance	100 per cent reduction of remuneration
Deputy Leader of the House (Seanad) allowance	100 per cent reduction of remuneration
Opposition Leader of the House (Seanad)	100 per cent reduction of remuneration
Government Whip (Seanad)	100 per cent reduction of remuneration
Assistant Government Whip (Seanad)	100 per cent reduction of remuneration
Leader of the Independent Group (Seanad)	100 per cent reduction of remuneration
Leader of the Labour Group (Seanad)	100 per cent reduction of remuneration
Whip to the Independent Group (Seanad)	100 per cent reduction of remuneration
Whip to the Labour Group (Seanad)	100 per cent reduction of remuneration

Table 2

*Hospital Consultants with total annual remuneration over €150,000*

Annualised amount of total remuneration	Reduction
Hospital Consultant	Total annual remuneration shall be no more than €150,000

”.

Many people find it difficult to accept that when so much is being demanded of them, they are being treated differently from Oireachtas Members. We heard this on the doorsteps during the recent by-election campaign and we hear it every time we interact with members of the public, especially at budget time. On Second Stage, the Minister commented on the current salary of the Taoiseach compared to the salaries of previous Taoisigh. People believe public officeholders and Oireachtas Members are being treated differently from them. The Bill provides an excellent opportunity to tackle the pay of Deputies and Senators and to slash additional payments for officeholders such as Ministers, abolish payments to committee Chairmen, group leaders and others. Were this amendment to be accepted, people would find it easier to stomach the measures in the legislation. Some of the payments in question are not acceptable. We should not protect the salaries of certain individuals, especially in times of recession.

Amendment No. 32 seeks to abolish the pay increase for super junior Ministers. There is no justification for paying someone an extra €17,000 for the privilege of attending Cabinet meetings. Elected politicians should consider it a privilege to serve at Cabinet and use whatever unique skills they may have at the Cabinet table for the public good. The pay increase for such Ministers should not proceed.

**Deputy Brendan Howlin:** I will not accept either amendment. It is unconstitutional to cut the pay of the President. It would not be possible to reduce the salary of the President as it is set in the Constitution. I am not sure it was the intention of the Senator to reduce the entire remuneration of all officeholders in the House to nil. The amendment would result in a 100% reduction in the remuneration of the Leader and Deputy Leader of the House, leaders of the Opposition and assistant Whips, all of whom would be expected to turn up for work for no pay.

I do not believe that was the intention.

Amendment put and declared lost.

Question, “That section 7 stand part of the Bill”, put and declared carried.

Amendment No. 26 not moved.

Question, “That section 8 stand part of the Bill”, put and declared carried.

Question, “That section 9 stand part of the Bill”, put and declared carried.

## SECTION 10

**Senator Sean D. Barrett:** I move amendment No. 27:

In page 14, between lines 2 and 3, to insert the following subsection:

“(3) The pay reductions in this Act shall apply to all bodies in receipt of state subventions, subsidies and transfers including those in the Schedule to the Act of 2009.”.

I welcome the Minister to the House. It is frequently stated in the House that where the chief executives of bodies in receipt of State subvention or subsidies earn more than the Taoiseach, they should at least be liable to have their salary reduced to the level of the Taoiseach’s salary, which I understand is €180,000. There are advocacy bodies and so forth which have extremely highly paid chief executives. It would not be out of line, given all that the Minister has said about the cutting of the pay of nurses, teachers and so on, if the Minister were to prescribe formally in the Bill or as a rule of thumb that we cannot pay chief executives more than the Taoiseach and that some penalty must apply to the staff of such bodies whose pay exceeds €65,000.

The Minister amended the Schedule to remove two bodies from the principal Act of 2009. While I support this change, I wonder how some of the bodies in question were included in the legislation in the first instance. Perhaps he will consider removing some of them from the list.

On the section relating to chief executives, the review of the assets and liabilities of State bodies examined the pay of some of the chief executives of these bodies. Some of those who have been deemed to be exempted from the legislation, unlike nurses and teachers, include the chief executives of the Dublin Airport Authority, Bord Gáis Éireann, Bord na Móna, Coillte, the ESB, EirGrid, Dublin Port, Irish Aviation Authority, An Post and Raidió Teilifís Éireann, who earn €560,000, €394,000, €231,000, €417,000, €753,00, €407,000, €317,000, €324,000, €500,000 and €326,000, respectively. These are remarkable figures, all of which are earned by individuals in the public sector. They are more remarkable given the reduction in salary taken by the Taoiseach and Ministers.

Average pay in the State bodies is also high. It is €51,700 at the State airports, which is 58% more than the average private sector income to which the Minister referred. In Bord Gáis Éireann, average pay is €77,200, while average pay at Bord na Móna, at €46,90, is the only case where it is lower than the public sector average. Average pay at Córas Iompair Éireann, Coillte, the ESB, EirGrid, the Dublin Harbour Board, the Irish Aviation Authority, An Post and Raidió Teilifís Éireann is €54,000, €63,700, €94,300, €96,700, €110,600, €120,300, €49,200 and €65,600, respectively. Should those employed in these bodies not be treated the same as those who earn more than €65,000 elsewhere in the public sector?

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The Minister stated that the average salary in the public sector is €46,000 and the reductions will be applied to salaries well in excess of the average.

*7 o'clock*

Given those numbers, there must be many people who have been paid increments and increases under the Schedule 1 exemption. Some of the others are even stranger. As far as I can see, although it is an independent body commercially - I believe that was the purpose of Schedule 1 when the late Minister, Brian Lenihan, introduced it - between 2001 and 2010 Horse Racing Ireland received €538.7 million in transfers from a levy, which is a form of taxation, for which I am sure the Minister could have found alternative uses. In the same period Bord na gCon received €135 million. It appears those bodies are commercial for the purpose of Schedule 1 but they know where the Minister is when they are seeking €530 million or €135 million. In the case of CIE, for some years it has received up to €800 million in subsidies. That suggests that those on the list should participate in the adjustments for which I voted earlier. Some very strange exemptions have occurred. The Irish National Stud lost €4.7 million in the year in which that committee reported and over the decade it lost €1.8 million per year, but again, it knows the Minister for Public Expenditure and Reform and the Minister for Finance will pay up. Is that body in the public sector? With regard to the exemption of ESB, our electricity costs are higher than anywhere else and are always above UK costs in international surveys. The airport exemption is amazing. There was a reduction, as the report notes, of 25% in the number of passengers going through the three airports in the years to 2010, but a 2% reduction in staff, so although there was a huge reduction in productivity, the staff were being paid increases and were not subject to the levies. What the report says is that we must regulate those bodies much more harshly and on a more commercial basis. In fact, in the case of the airports, the former Minister, Mr. Noel Dempsey, exempted them from regulation and gave them a 41% increase, which precipitated the 25% reduction. We need proper regulation by the energy regulator, as our gas prices are also high.

With regard to the exemption of these extremely highly paid people in the public sector under that Schedule, I support the Minister in his removal of two of the bodies, but the inclusion of some of the bodies appears to me anomalous. By exempting them the Minister increases the cost base of the economy, and he may find them knocking at his door seeking a subsidy to pay the increases that they get by being exempt under Schedule 1. When we have asked for such a contribution and sacrifice, some of these factors might be examined. I say this as a supporter of the Bill. For how long more should Schedule 1 remain in place? I compliment him on the removal of two bodies, but in general, we should not have a situation in which bodies whose members are earning more than the Taoiseach are coming to the Minister seeking assistance, subsidies, subventions or funding.

**Deputy Brendan Howlin:** I am always attracted to the Senator's arguments. The whole purpose of the Bill is to make a saving for the Exchequer in the pay and pensions bill. To cut pay in the commercial semi-states would not accrue any money to the Exchequer. One could suggest a new levy of an appropriate amount on these bodies to make them pay it back to us, and I suppose that would be possible. However, there is a commercial mandate for companies. We should have an open and clear debate about this. When I established a cap of €200,000 on public servants' salaries shortly after the Government came into being - that cap has been reduced many times, and we all well below that now - I put another cap of €250,000 on the salaries of commercial semi-state chief executives, which we have enforced. The Senator may be aware of the Hay rates. In order that ESB is not equated with Bord na gCon in its treatment,

there is a hierarchy of boards and an appropriate differential between each of the chief executives. We can forward a copy to the Senator. We have proportionately reduced that to fit into the €250,000 cap and it has been a challenge to enforce it. One of the issues that has come up time and again is that if one is trying to drive a commercial mandate one needs people of commercial capacity. To be blunt, one will certainly get people to fill the posts - there is no difficulty in doing that - but the question is whether one can find the right people, with the appropriate skill sets, to drive what are in some cases multi-billion euro enterprises, while one is fishing in the same pond as other commercial entities. One issue arises, although it is probably not for today. The reason we have taken such a hard line on high pay is on equity grounds, because we know the pressure that is falling on ordinary citizens in this economic crisis. The problem that arises again and again is that of holding on to people of high calibre and quality in the public sector. It is something on which we need an open and honest debate.

I am not minded to accept the Senator's amendment. We need a commercial mandate for those companies we want to be in public ownership but to compete in the commercial sphere without being hampered. We had a similar debate when we were talking in general terms about whether the commercial semi-state companies should come within the remit of the freedom of information provisions in the same way as companies. That fact that a company is in State ownership should not spangle it from competing on a level playing field with privately owned companies. I made the decision in respect of the National Treasury Management Agency because it is paid from the Central Fund and so the savings will accrue to the Central Fund, and similarly in respect of the Railway Procurement Agency because it is paid from the Exchequer. We can have a debate about whether all of the bodies should be excluded, but certainly the blanket inclusion of all is not warranted.

The other impact of the amendment, in terms of extending the provision to anybody who receives money from the State, would be a very broad blanket and would include charities and so on. I have strong views on the levels of pay in some charities, but I do not think we can say that because the State makes a contribution to any organisation we can control the pay scales in that organisation. That would be a bridge too far.

**Senator Sean D. Barrett:** I thank the Minister and will not push the amendments. As he said, there are items in there that are debates for another day. I believe measures to regulate charities are being considered at present. I wish the Minister every success with the €250,000 cap.

Amendment, by leave, withdrawn.

Section 10 agreed to.

## SECTION 11

**Senator Sean D. Barrett:** I move amendment No. 28:

In page 14, subsection (1), between lines 29 and 30, to insert the following:

“(e) an actuarial assessment of the impact of this reduction in pension related deductions will be published annually.”.

This is a brief amendment. The Minister earlier a reduction of €125 in the pension levy. The concern I have is based on the report of the review group on State assets and liabilities,

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which stated that the State bodies had a pension deficit of €3.4 billion, while the assets were 69% of the obligations. There was other legislation here, with universities, the ESRI and the Institute of Public Administration, where bankrupt pension funds were lobbed in. My fear is that, left to themselves, this generation - I include myself in that - will award each other added years and lower contributions, but will there be an actuary to say, "By the way, guys, you have blown it. The pension fund is now broke."? That is a suggestion, although I will not push it. When we give away €125 to this generation, what will be left in the pension fund? The Minister for Social Protection has published documents showing that we need to get serious about pensions. We have raided the National Pensions Reserve Fund to a huge degree and, according to the review group, we have €3.4 billion in net liabilities in pension funds. I am worried about the proposal to give people €125 as a sweetener. It comes at a cost, and that should be explicit.

If we are left to ourselves, we will raid the pension funds, have a party now and do nothing about planning for the future, which is the reason we got into this trouble in the first instance.

**Deputy Brendan Howlin:** Obviously, that is a much wider issue than what is involved in this instance. The Senator will be aware that we have a new overarching pensions provision that I brought into force, having brought it through both Houses of the Oireachtas, one year ago. It came into force on 1 January last and comprised new pension provisions generally.

The pension-related deduction is not a pension contribution. I made this clear when I met the trade unions during the negotiations. They had raised the issue of the pension-related deduction or levy, as we call it normally. They made the case that when added to their regular pension contribution, the result was that they would never get the benefit of it. I made it clear that the pension-related deduction was part of the financial emergency measures in the public interest, FEMPI, architecture and that it would lapse. It is not a permanent feature and, therefore, cannot be regarded as a permanent contribution to pensions. What I am doing is signalling the beginning of a little payback to workers in the public sector of a modest €125 a year. The burden of annual reporting outlined in the amendment is not warranted and would be unduly prescriptive.

I understand the general point the Senator is making. The Comptroller and Auditor General is undertaking an analysis of total pension liabilities because the most recent analysis is somewhat dated and we want to get a clear picture. We have changed the entire architecture with the new Public Service Pensions (Single Scheme and Other Provisions) Act which came into force on 1 January last.

**Senator Sean D. Barrett:** I will not press the amendment. I again thank the Minister for his elucidation and determination to build a properly funded pensions scheme.

Amendment, by leave, withdrawn.

Section 11 agreed to.

## SECTION 12

**Senator Ned O'Sullivan:** I move amendment No. 29:

In page 15, subsection (2)(d), line 16, after "review" to insert the following:

"to include confirmation that a financial emergency continues and to include confirmation that the Schedule to the 2009 Act should continue to apply".

Amendment put and declared lost

Section 12 agreed to.

#### NEW SECTIONS

**An Cathaoirleach:** Amendments Nos. 30 and 31 are related and may be discussed together.

**Senator Kathryn Reilly:** I move amendment No. 30:

In page 15, before section 13, to insert the following new section:

“PART 2

REPEAL OF SECTIONS 6 & 7 OF THE SUPERANNUATION AND PENSIONS ACT 1963

13.—Sections 6 and 7 of the Superannuation and Pensions Act 1963 are repealed and this provision shall come into effect immediately on the passing of this Act.”.

These amendments are straightforward. They deal with the pension calculations of former senior civil servants and county and city managers. They seek to apply retrospectively to them the changes the Minister has recently introduced for new entrants to the public service. They are aimed at curbing pension payments to former Secretaries General and city and county managers. Their purpose relates to the point we have been making all along, that is, if one wants to make savings, one must start at the top and reduce the pay and pensions of those who earn most. The Minister has articulated previously that this cannot be done retrospectively and I imagine he will say as much again. I call on him to elaborate on why exactly it cannot be done retrospectively and why he will probably not accept the amendments.

**Deputy Brendan Howlin:** The Senator is right: if we were to accept this amendment, it would only have prospective impact. We have had this discussion before. We cannot retrospectively alter these conditions. We have already fundamentally altered the top level appointment committee, TLAC, terms and all new appointments made since shortly after we came into office have been on the revised terms. It was a surprise to many of us. I have been around these Houses a long time and as far as I can recall, the TLAC terms were introduced in 1987. They applied to Secretaries General and some others, including county and city managers. We have already altered the terms, but we cannot retrospectively alter them for those who already have these rights.

Amendment put and declared lost.

**Senator Kathryn Reilly:** I move amendment No. 31:

In page 15, before section 13, to insert the following new section:

“PART 2

REPEAL ARTICLE 78 OF THE LOCAL GOVERNMENT (SUPERANNUATION) (CONSOLIDATION) SCHEME 1998

13.—Article 78 of the Local Government (Superannuation) (Consolidation) Scheme 1998 is repealed and this provision shall come into effect immediately on the passing of

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this Act.”.

Amendment put and declared lost.

**An Cathaoirleach:** Amendments No. 32 has already been discussed with amendment No. 25.

**Senator Kathryn Reilly:** I move amendment No. 32:

In page 15, before section 13, to insert the following new section:

“PART 2

REPEAL OF STATUTORY INSTRUMENT NO. 28 OF 2012 OIREACHTAS (ALLOWANCES) (CERTAIN MINISTER OF STATE) ORDER 2012 (S.I. NO. 28 OF 2012)

13.—Statutory Instrument No. 28 of 2012 Oireachtas (Allowances) (Certain Minister of State) Order 2012 (S.I. No. 28 of 2012) is repealed and this provision shall come into effect immediately on the passing of this Act.”.

Amendment put and declared lost.

Section 13 agreed to.

#### TITLE

**An Cathaoirleach:** Amendments Nos. 33 and 34 are out of order.

Amendments Nos. 33 and 34 not moved.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question put:

The Committee divided: Tá, 27; Níl, 9.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Barrett, Sean D.	Cullinane, David.
Bradford, Paul.	MacSharry, Marc.
Brennan, Terry.	Norris, David.
Burke, Colm.	O’Brien, Darragh.
Coghlan, Eamonn.	O’Sullivan, Ned.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	Reilly, Kathryn.
Conway, Martin.	Walsh, Jim.
Cummins, Maurice.	
D’Arcy, Jim.	
D’Arcy, Michael.	
Gilroy, John.	

*Seanad Éireann*

Hayden, Aideen.	
Healy Eames, Fidelma.	
Henry, Imelda.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Donnell, Marie-Louise.	
O'Neill, Pat.	
Sheahan, Tom.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Marc MacSharry and Ned O'Sullivan.

Question declared carried.

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Maurice Cummins:** On Tuesday, 11 June, at 2.30 p.m.

The Seanad adjourned at 7.25 p.m. until 2.30 p.m. on Tuesday, 11 June 2013.