



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 02 Deireadh Fómhair 2013

Wednesday, 02 October 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

To ask the Minister for Communications, Energy and Natural Resources if he shares the concerns of the Senator and the understandable anxieties of workers from the ESB group of unions in regard to the €1.7 billion shortfall in the highly profitable semi-State company's pension fund and the grave problems this poses for ESB workers and their families in terms of pension security and pension entitlements in their retirement.

I have also received notice from Senator Fidelma Healy Eames of the following matter:

To ask the Minister for Health to redirect the funding approved in the treatment abroad scheme for a Galway father (details supplied) with colon and liver cancer towards better life-saving treatment in Memorial Sloane-Kettering Hospital, New York, being the hospital with the best record for cure and life-saving outcomes in this area.

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

An gá go ndéanfadh an tAire Ealaíon, Oidhreachta agus Gaeltachta ráiteas maidir le todhchaí Eagraíocht na Scoileanna Gaeltachta ó thaobh tacaíocht a Roinne de.

I have also received notice from Senator Thomas Byrne of the following matter:

Ráiteas a fháil ón Aire Oideachais agus Scileanna maidir le cur ar fáil seirbhís leathanbhanda do scoil Ultain Naofa, Baile Ghib, Ceannanais, Condae na Mí.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Health to clarify why the degree of MSc in dietetics from a university in Northern Ireland is not automatically recognised by the Department of Health and why it is taking up to six months to process an application for the validation.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

Ag iarraidh ar an Aire Ealaíon, Oidhreacht agus Gaeltachta geallúint a thabhairt gó mbeidh maoiniú ar fail ó thuas na bliana seo chugainn ar aghaidh do Eagraíocht na Scoileanna Gaeltachta Teo.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators John Whelan, Fidelma Healy Eames, Trevor Ó Clochartaigh and Thomas Byrne as suitable for discussion on the Adjournment, and they will be taken at the conclusion of business. The matter raised by Senator Brian Ó Domhnaill is similar to that raised by Senator Trevor Ó Clochartaigh, and I suggest they share time. Senator Colm Burke may give notice on another day of the matter he wishes to raise.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, County Enterprise Boards (Dissolution) Bill 2013 [Seanad] - Order for Second Stage and Second Stage, to be taken on the conclusion of the Order of Business and to be adjourned not later than 2 p.m., with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed eight minutes; No. 2, Industrial Development (Science Foundation Ireland) Bill 2012 - Report Stage, amendments from Dáil Éireann, to be taken at 3 p.m.; No. 3, Private Members' Business, Upward Only Rent (Clauses and Reviews) Bill 2013 [Seanad], to be taken at 5 p.m. and to conclude not later than 7 p.m.

Senator Mary M. White: As we are in the midst of Positive Ageing Week I wish to raise the issue of Ireland's growing number of older people. Irish people are living longer and enjoy more years of healthy, active living than previous generations. The world is ageing so fast that most countries are not prepared to support their swelling numbers of elderly people, according to a global study issued yesterday by the United Nations. The report ranks the social and economic well-being of elders in 91 countries, with Sweden coming out on top and Afghanistan at the bottom. It reflects what advocates for the old have been warning with increasing urgency for years, namely, that nations are simply not working quickly enough to cope with a population growing faster than ever before. By the year 2050, for the first time in history, senior elders older than 60 will outnumber children younger than 15. Our Scandinavian neighbours, Norway and Sweden, are leading the way with the most important issues of income security, health status, employment, education and providing an environment where older people can continue to develop their potential and contribute to society. The fact that Ireland ranks 12th is encouraging but why are we doing so poorly with regard to income security, employment and education? Currently, Ireland is ranked 24th when it comes to income security and 32nd when it comes to employment and education, making us among the worst in Europe.

Less than half of Irish people aged 50 to 64 are currently in employment. This means a large section of our population with valuable experience and expertise are being under-utilised. As a nation, why is Ireland not aspiring to be as good as countries such as Norway and Sweden when it comes to caring for and respecting its older population? That people are living longer is a testament to advances in health care and nutrition and our older people should be seen as a resource, not as a burden. I call for a debate on Ireland's inability to adequately care for our

older generation. It is simply not good enough that so many over the age of 50 are having such difficulty finding employment and contributing to Irish society in a meaningful way.

Some months ago I introduced a Bill ending compulsory retirement and the Minister, Deputy Shatter, stated:

I have a great deal of sympathy on this issue and would like to emphasise my continued commitment and that of the Government to promoting good employment and equality practices by all employers in Ireland. Many in their 60s and 70s have the alacrity and mental capacity to make a continuing and substantial contribution to their lives and those of others and to remain in the workforce and be innovative.

He further stated, “This is a useful and valuable debate.”

I ask the Leader to ask the Minister, Deputy Shatter, the reason he is so slow off the mark following up on the Bill I introduced and that was received very well by the Minister, Deputy Phil Hogan, who on that day stated, “I do not normally agree with Fianna Fáil policy but I am glad this one has been put forward.” The Leader might let me know when this issue will be pushed forward to ensure the human rights of our older citizens and that people will be allowed work after the age of 65 if they so wish.

Senator Ivana Bacik: I commend Senator White on her work on this matter. She has shown a long-term commitment to the issue of rights of older people. We had a session with the public consultation committee in the Seanad on that very issue but I would support her call for a debate to further that work in the future. Yesterday she mentioned that it was United Nations International Day of Older Persons, which I had intended mentioning. It is a huge issue. I see reports in Britain of greatly increasing numbers of people living to over 100 in Britain, a new category which demographers there are describing as the older old for whom provision has to be made. We need to be thinking of people not as being past their point of usefulness when they reach their late 60s but having plenty to contribute for many decades after that.

I ask the Leader for a debate on the Middle East. The Minister, Deputy Shatter, was before the justice committee this morning where he spoke about the justice and home affairs agenda in the European Union. In the course of our discussion with the Minister he stated that next week Lithuania, which holds the Presidency of the Council of Europe, will host a meeting of the home affairs committee at which the crisis in Syria will be discussed and in particular the implications for the EU in terms of the refugee crisis. The numbers are appalling. More than 6 million people are now displaced as a result of the Syrian war, with huge consequences for the neighbouring countries that have taken in many.

In the course of our debate the Minister pointed out that Ireland has given €10 million to alleviate the suffering of the refugees who have had to flee the conflict but he also said it would be useful to have a more general debate on the Middle East in the near future to examine the implications for countries like Lebanon of the overflows from the war in Syria. He suggested that debate might be had at the justice committee but it strikes me that it would be more appropriate to have it in the Seanad to ensure a wider range of colleagues could contribute. As the Minister said, it is an issue that goes beyond justice or even the Defence portfolio. This is an issue much more generally about human rights and our obligations to our neighbours elsewhere.

I ask the Leader for a debate on gaps in legislation. It has struck me, particularly this morning while canvassing for a “No” vote, that the strength of the Seanad in the past and currently

has been to identify failures to legislate. I refer to areas such as contraceptives rights in the 1970s where Mary Robinson's Bills in this Chamber paved the way for subsequent Government change, Senator David Norris's Bill on civil partnership and the Bill on climate change first introduced here in the Seanad. We have identified areas where the Government has previously failed to legislate and it would be useful for us in this House to identify further gaps on which to legislate and play a role, therefore, in trying to improve the state of governance in this society by putting forward legislation.

An area on which I know former Senator Mary Henry did great work was that of assisted human reproduction. There has been a good deal of litigation on that issue before the courts, most recently on the issue of surrogacy. There is an excellent report from the Commission on Assisted Human Reproduction. The Seanad should be putting forward legislation where there is clearly a vacuum currently in terms of legislative or regulatory policy, and we should be looking to fill that gap. I would like us to have a debate on other such areas where the Seanad could play a useful role.

Senator Jillian van Turnhout: I raise with the Leader, and the Cathaoirleach, a decision made by the Dáil Committee on Procedure and Privileges, CPP, yesterday to cease allowing Members to invite non-governmental organisations to host briefings in the AV room. I learned of this not as a member of the Seanad CPP. I learned it from Deputy Thomas Pringle's tweet. He tweeted, "Dáil CPP closes down presentation room to NGOs too embarrassing it seems to see effective cuts inside Leinster House". I have verified that information with the CPP.

Yesterday, I organised a briefing on the Child and Family Agency Bill 2013, which everybody says is a significant Bill. We had cross-party and group representatives at the meeting. I invited the Children's Rights Alliance, which brought in Barnardos, EPIC, Empowering People in Care, Pain, Lifestart, the Irish Association of Social Workers, Focus Ireland, Young Ballymun, Start Strong and the Association for Criminal Justice Research and Development. They gave their collective views to Deputies and Senators on the Bill. The Bill has been delayed and will have significant changes made to it which I know were advocated by the NGOs.

The situation asks serious questions of us. I have visited several parliaments around the world and NGOs have much greater access. For example, last year I visited Wisconsin - in case any reporters are tuning in I add that I did so at my own expense - and there is a round space where NGOs can protest inside the Parliament. That allows members to have direct engagement with and the NGOs are not kept beyond the gates.

We often talk about the use of the guillotine in this House. I wonder whether this situation is an example of its over-use. I have some serious questions to ask about this matter: does the Dáil CPP have ownership rights over the AV room? Is it pre-empting a forthcoming vote? Are we only in favour of representative democracy or do we not also agree in participatory democracy? If decisions are made, we need to be involved. The rules in this House about the use of the AV room are ever changing. I would therefore welcome written guidance on what is and is not allowed. The development is a serious one and I seek urgent clarification.

Senator Sean D. Barrett: I second Senator van Turnhout's proposal. The civic engagement policies of the Leader are deeply appreciated outside the House if not by the leadership of his own party. He deserves credit. We need to involve civic society more. Will the Dáil shut off itself from contact with NGOs? Is that what will happen if the Seanad is abolished?

2 October 2013

To follow up on yesterday's discussion, I understand the conference the Minister of State, Deputy Cannon said he was attending begins at lunch time today. I have the invite from the OECD, the Organisation for Economic Co-operation and Development, which says that the event will end with a working lunch tomorrow. The Minister of State should have come into the House yesterday. His Department told the Leader that he had already left. He made a serious allegation without any validation at all in the reports of the Standards in Public Office Commission in the period since 2007. Deputy Cannon said that he was bribed in 2009. There have been six investigation reports since that time, none of which refers to a Senator. One refers to a Deputy and four to local government officials, two of which were in Mayo and one each in Donegal, Kerry and Dublin. Deputy Cannon made a serious allegation against this House and senior members of Fianna Fáil and then left the country somewhat early for a conference that begins at lunch time today. It is incumbent on him to contact the House because he is not due back until after the House rises and his allegation is left hanging, doing damage to the referendum on Friday and the credibility of this House, which is what he used the article for. Indeed, in the article he wrote - it was not an interview - that the Seanad is a relic of a bygone era. The main reason he gives for that view is that he met somebody in here who tried to bribe him. He must come back before tomorrow to confirm or at least explain why he never referred the matter to the appropriate authorities and why he decided that it was only important to make the allegation in last week's *Connacht Tribune*. It is a serious matter that merits telephone calls or some contact from Istanbul.

I note that all Irish universities are in the top 15,000 or 4% of world universities. Trinity College Dublin is No. 61 in the world and ninth in Europe. We use those standings to promote Ireland as an attractive destination. It is completely incongruous that a Government doing that wishes to expel the university Senators from Parliament, which is what it is doing in trying to get rid of the six people on these benches. The inclusion of those six Members is called elitism apparently. However, 47% of under-35s and 70% of 18 and 19 year olds have received third level education. That is a lot more than the percentage of people who go to Clongowes. The two leading Ministers who are criticising the universities for being elitist are old Clongownians. The old Clongownians against elitism - that must be the most exclusive group that one would find anywhere.

Another damage that other Clongownians are trying to undo is the relationships between the North and South. I commend the college on its links with Portora. Those are the areas that the two old Clongownians are attempting to sunder by calling for a "No" vote. Their criticisms of Irish universities are garbage and they should be rebutted by the university authorities. We are delighted to play our role here. I bring the wisdom of 64 departments. People from those departments give that wisdom to me to bring here because I am elected by them. No committee system will replace that, particularly one that is not allowed to meet in the AV room or one in which people are kicked off it because the Taoiseach does not like their views. The two old Clongownians against elitism should recognise the presence and value of the university Senators. Their approach is an affront to the entire community and I hope that it takes the appropriate action at Friday's referendum.

Senator Eamonn Coghlan: Following on from Senator White's point about positive age week, I had the pleasure last Monday to open the Ballymun Whitehall Area Partnership positive ageing week to more than 200 enthusiastic elderly people. Somebody at the event said that 60 is the new 40, so when I told them that it would be only six years before I got the bus pass, they were a little bit shocked when they noticed my slender body.

On the other end of the scale of aging, two years ago I brought my motion on the physical fitness and education to the Seanad under the points for life initiative. That day I got a round of applause from my colleagues here, as well as receiving a considerable amount of media coverage. There have been many years of debate in here, the Dáil and the media on the health of the nation and particularly the physical state of well-being of the youth. However, when such debates and motions are brought to the Dáil or the Seanad people often ask where the reports are. Most of them are on shelves. However, behind the scenes, I have worked closely with the Department of Education of Skills over the past two years. We have overcome roadblocks and hurdles and I know that many more are to come. However, I am very pleased to announce that the points for life pilot programme commences in schools today. Under the leadership of Dr. Mary O'Flaherty, the Professional Development Service for Teachers has a management team and a delivery team in place where teachers, students and parents will be skilled. In addition, having an evaluation team in place means that by next June we will know what the results are of this delivery of physical education. I do not want the programme just to be a one-year pilot; I want the programme to be continued because it needs to be sustained beyond the one year.

Now that a referendum is taking place on Friday, many people in the past couple of weeks and months have criticised Senators attendance at the House, and they have looked at our attendance and voting records. I may have missed a number of votes because I was in meetings with various Departments to get the programme off the ground. That example makes clear the work of Senators is not just about their voting or attendance record but what they do behind the scenes.

11 o'clock

Senator Martin Conway: Hear, hear.

Senator Eamonn Coghlan: I am very proud that the delivery of physical education in schools in Ireland will, please God, change from today onward.

Senator Ned O'Sullivan: I have referred on one or two previous occasions to the plight of abandoned horses. We have all read the horror stories about and seen the terrible pictures of animals in distress. I was disappointed when I learned at the weekend that the Government has withdrawn grant support for one of the voluntary agencies which is responsible for most of the great work done in this area. Will the Leader bring this matter to the attention of the appropriate Minister in the context of discovering whether the grant in question can be reinstated?

On a number of occasions I have asked that the Minister for Agriculture, Food and the Marine, Deputy Coveney, come before the House to engage in a debate on the horse racing industry, which is very important to the economy. Horse Racing Ireland does a tremendous job in general but on occasion it makes some very serious errors. I wish to draw the attention to a very serious error the organisation has made in respect of the Listowel Races, an event which is very dear to my heart and which, along with Galway and Punchestown, is one of the top festivals of the year. It is a seven-day meeting and the attendances achieved this year were phenomenal. This race meeting contributes huge amounts of revenue every year through the tote. However, Horse Racing Ireland has decided to arrange a gala horse racing festival involving the Curragh and Leopardstown which will be held during the early days of the Listowel Races next year. The festival in question will include five group 1 races. This will put it into direct competition with the meeting held at a small race track in the south west. The latter has been battling away for 150 years and has made a major contribution to the economy of the region. Horse Racing

Ireland did something similar before but what it is doing now is absolutely crazy. The Minister for Agriculture, Food and the Marine should arbitrate on this matter.

Senator Denis Landy: I commend Senator Eamonn Coghlan on the work he has done during the past year. As the Senator indicated, he went away and did this work quietly. Ireland currently lies 23rd in the league of nations regarding the amount of physical education children receive on a weekly basis. I have no doubt, in light of the work being done by Senator Eamonn Coghlan, that we will begin to move up the table and eventually enter the top ten.

The other issue to which I wish to refer is carers. On 3 July last the Carers Association made a pre-budget submission to Oireachtas Members in the audio-visual room. A number of issues arose as a result of that submission. I met carers from Tipperary, led by their manager, Richie Molloy, last week in order to discuss those issues. The main matter of concern to them is that despite the HSE instructing GPs not to charge for blood tests, in some areas patients with medical cards are still being charged €20 for such tests. I request that the Leader ask the Minister for Health to issue an instruction to the effect that this practice should be brought to a halt immediately. It is not HSE policy and it should not be done. There is no transparency whatsoever with regard to how home-care packages for carers are being assessed. There are no criteria available to carers and, therefore, whether a package is approved depends on the humour of the person making the assessment on the relevant day.

My final point in this regard relates to the fact that, as matters currently stand, people with medical cards are being charged €1.50 per item on each prescription they bring to their pharmacists. Carers are requesting that a flat rate should apply. Many carers bring prescriptions listing up to seven or eight items required by the family member for whom they are caring to their pharmacists. Some may be required to go to the doctor twice a month in order to obtain repeat prescriptions. They are requesting that the existing system be scrapped and that a flat rate should apply in respect of all prescriptions. I ask the Leader to pursue these issues. We are in pre-budget mode but that which I have requested is not too much to ask for carers throughout the country who look after loved ones.

Senator Diarmuid Wilson: Senator Barrett again raised the allegations made by a former Member of the House who is now a Minister of State to the effect that a senior Fianna Fáil Senator allegedly offered him a bribe to stay “onside”, as is stated in the relevant newspaper article. As I stated yesterday, the Minister of State, Deputy Cannon, is a friend of mine and I like him. However, this is a very serious matter. The Minister of State has alleged, in a newspaper published in his native county, that a Member of the previous Seanad who is also a member of my party offered him a bribe to remain onside. The Minister of State did not report this matter to the Standards in Public Office Commission or the Garda. This is the first occasion that anyone in the Seanad has heard the allegation, which forms a substantial part of the relevant newspaper article. I am of the view that the article is slanderous of all of us in this House. Basically, it implies that we are only here for the money and jobs for life.

The Minister of State, Deputy Cannon, previously served in this House and was appointed as one of the Taoiseach’s 11 nominees. Perhaps someone might examine his voting record during the period in question because, as I recall, he spent more time paired with another current Minister of State, Deputy Alan Kelly, than he did as a Member of the House.

An Cathaoirleach: Does the Senator have a question for the Leader on the Order of Business?

Senator Diarmuid Wilson: This was prior to his decision to join Fine Gael in opposition, which was his right because this is a democracy.

An Cathaoirleach: The Minister of State is currently a Member of the Lower House. Does the Senator have a question for the Leader?

Senator Diarmuid Wilson: With respect, he was previously a Member of this House and he has made an allegation in respect of his time here. The matter should be clarified by the Minister of State before the day is out. There is no point in proposing an amendment to the Order of Business to the effect that he should come before us because he is out of the country at present. Tabling an amendment would only place the Leader in a difficult situation in any event. It should not be beyond the Minister of State to lift the phone and contact the Leader or the Cathaoirleach in order to clarify the position. He could also contact members of the media. I am of the view that it is no coincidence that the latter have not mentioned this issue in the newspapers for which they write today.

An Cathaoirleach: The Senator is way over time.

Senator Diarmuid Wilson: The Minister of State is a member of the Government and this is a very serious matter. He should clarify the position, particularly as what has been said is a reflection on every Member of the House.

I did not have time to do so yesterday so I take this opportunity to congratulate the Cavan women's Gaelic football team who won the all-Ireland intermediate football final on Sunday last in Croke Park. I was very glad to be present for the occasion. The game, in which Tipperary also took part, was excellent.

Senator Denis Landy: We were robbed.

Senator Diarmuid Wilson: Tipperary performed very well. I congratulate the Cavan team, which has been there or thereabouts for many years. The efforts of its members paid off in the end.

Senator Martin Conway: Yesterday, I contacted the head usher in order to book the audio-visual room for a presentation from the Irish Deaf Society prior to a Private Members' motion on Irish sign language which I have tabled and which is due to be taken next week. This is an extremely important issue which affects thousands of deaf people throughout the country who find it very difficult to communicate at the best of times. I was informed that it would not be possible to avail of the audio-visual room because the CPP has decided that NGOs are no longer allowed to use the facility. The latter is another example of the constructive removal of the voice of democracy in this country.

It is absolutely disgraceful that NGOs can no longer come to this complex in order to brief Members of Parliament in order to enhance their knowledge. Furthermore, my office received a telephone call from the head usher approximately 30 minutes ago in which he indicated that a briefing on restorative justice, which was due to be held on 15 October and arrangements in respect of which were made weeks ago, cannot proceed and that the relevant stakeholders have been informed.

Senator Mary M. White: That is undemocratic.

Senator Martin Conway: It is completely unprofessional and disgraceful.

Senator Mary M. White: The Taoiseach probably made the decision.

Senator Martin Conway: This makes a mockery not just of the Seanad but also the Houses of the Oireachtas. What should I say to those who were due to brief us on restorative justice and who had made arrangements to take time off work? Should I inform them that a committee comprising Members of this House and the Lower House has decided to prevent the key, important and democratic voice of NGOs from being heard in the Seanad? What is happening is nothing short of appalling.

An Cathaoirleach: The Seanad Committee on Procedure and Privileges has not met to discuss this issue. It has not come before the CPP. I call Senator Cullinane.

Senator Martin Conway: I appreciate that clarification. I would have been surprised if Members of this House had been involved in it. I call for an urgent meeting of the Seanad CPP to reverse this appalling situation and I want the Cathaoirleach to facilitate that.

Senator David Cullinane: I intended to raise a different issue but I must support the comments of the previous speaker. I was completely unaware of that situation. I also have organised a number of events and meetings at which NGOs were to come in and brief Oireachtas Members on different issues, as I am sure have other Senators and Deputies. It would be appalling and bizarre if Oireachtas Members were prevented from inviting NGOs, voluntary groups, community groups and other groups to address Members of this House, which is exactly what we are paid to do. We are paid to legislate and to listen to people who are experts in their field. If a decision was made by whoever that this is no longer allowed to happen for whatever reason, it is a retrograde step and it needs to be reversed. All political parties need to work together to have decision reversed.

I commend the Leader and the acting Leader on arranging the address last week by the general secretary of the Irish Congress of Trade Unions. It was a very good discussion. It is important to follow that up with a debate on workers' rights and to address many of the issues that were raised, primarily the need for collective bargaining and trade union recognition but also the issue of zero hour contracts and issues affecting working people. The Leader will know that the Government is preparing to streamline and improve the employment rights bodies through the workplace relations Bill. It would be an opportune time for Senators to have a discussion on how we can help shape that legislation in advance of the Bill being introduced because the trade unions have concerns. There is also the issue of the reform of the joint labour committees, JLCs, and a potential Bill on collective bargaining or something happening in that area. A debate on this area would be constructive. We would be able to bring to it the views of the trade unions and of working people in terms of what they would want. I ask the Leader to arrange such a debate. I strongly support the views expressed by Senator Conway.

Senator Aideen Hayden: I would like to comment briefly on what Senator Eamonn Coghlan said, and I agree with him. I am not aware of a single Senator in this Chamber who does not work behind the scenes, championing causes and reform. I can point to legislation where my intervention caused an amendment to be made to a Bill. I know that every Member of this House is in the exactly the same position. Just because an amendment does not go down as an Opposition amendment and is accepted by a Minister does not make it any less valid. I am convinced that irrespective of what the people do on Friday, every Member of this House will continue to work and champion the causes they have championed up to now.

Senators: Hear, hear.

Senator Aideen Hayden: One of the most regrettable aspects of the campaign has been the failure to discuss the merits of voting for or against the abolition of the Seanad on the basis of the merits of the Seanad, as well as a move - as I perceive has been done in the public domain - to undermine the valid work that has been done by this Chamber, not only by this Seanad but by previous Seanad. That is disgraceful. It is also disgraceful and regrettable, and this is my personal perception, that this House has been starved of business over recent weeks deliberately to make us look ineffective.

Senators: Hear, hear.

Senator Aideen Hayden: I await to see what will happen after the referendum is done and dusted and what level of legislation will suddenly appear in this House.

I am disappointed that we have had not had a debate on the upcoming budget in this House. One issue which I would like to have raised is the fact that we spend €60 million dealing with the direct impact of diabetes, directly linked to obesity, and yet some children in this country go to school hungry. One of the proposals made by a number of organisations was for the imposition of a nutrition tax. I would like to have had the opportunity to have had that proposal seriously considered in this House and the revenue it would yield ring-fenced to delivering food to needy children in schools. I ask the Leader to bring that proposal to the attention of the relevant Minister.

Senator Marc MacSharry: The situation regarding the NGOs addressing Members of the House is a serious one and it should be addressed. To whatever extent this House can influence the Committee on Procedure and Privileges of the other House, that needs to be done. One wonders, with the abolition of the Seanad on Friday what is next - the abolition of protests on Kildare Street? I agree with Senator Hayden that despite the best efforts of the Leader of the House - who as I have said many times previously, is the best Leader we have had in the 11 years I have been a Member of this House - the Government has manipulated a scenario to guarantee the abolition of the Seanad by starving it of business and by allowing Ministers to write reckless articles in the newspapers, such as the one written by the Minister of State, Deputy Cannon. No doubt, to write that article he did not have to sit in the office of *The Connaught Tribune* and, regardless of where he is in the world, presumably he has access to a phone in Istanbul or wherever he is. He should comment on this because that article is nothing short of reckless.

As one of the only two members of the Houses of the Oireachtas Commission in this House, I have not said this previously but it needs to be put on the record, and I sure Senator Whelan would agree with me. As somebody who presides over the costs of the Oireachtas and is on the finance committee of the Houses of the Oireachtas Commission, I wanted to put on the record that the Houses of the Oireachtas Commission at no time said that the cost of running the Seanad was €20 million or anywhere near it. Anybody who stands over that figure and persists in stating it as a fact is telling lies. That is the plain truth of the matter, and I say that as a member of the Houses of the Oireachtas Commission.

I ask the Leader if a Minister might be available to discuss the issue of social partnership. We are seeing the beginnings of serious unrest with the teachers' strike that has begun and a junior doctors' strike due to be held next week. Social partnership was a champion with which

Governments were allowed to lead Ireland to recovery in the 1980s and at other times in our history. It is required now by whatever Government is in place. I ask that Ministers at these late stages would try to get people to sit around the table and try to find some middle ground because that would be in all our interests.

Senator Catherine Noone: On my way into the House this morning I saw taxi drivers protesting. There is an over-supply of taxis in the city. That goes with a slump in the economy but there is a short-term problem. When there is an improvement in the economy, more taxis will be needed, but in the short term, something needs to be done. There is a huge lack of parking spaces in the city as almost all of the areas that were available for free parking after 7 p.m. are now being used by taxis. It is an issue we need to discuss with the Minister in the House to ascertain if something can be done. When I drive around the city at night I see taxis parked in all sorts of places and it is dangerous. Gardaí do their best to patrol it but this is an issue we could usefully discuss.

I support the call regarding the Listowel Races. It is a race festival that I have been lucky enough to attend on a few occasions. It is a fabulous, down to earth festival which differs from others that are more fashionable. The local economy needs this festival. It is the likes of this festival that keeps the economies of towns like Listowel and those of other rural areas going. A previous Senator called for a debate on the horseracing industry and that debate would also be useful.

Senator Feargal Quinn: The Joint Committee on Health and Children yesterday decided to accept a proposal to have presumed consent for organ donation. I mention it because we should urge the Government to move on that legislation as quickly as possible. That is a matter that was introduced in this House almost five years ago. It has come back on a number of occasions and is a reminder of the work that goes on in this House and that continues on that basis.

During the past week, France copied a measure that was proposed in House in regard to the origin labelling of food. It was contained in the Food Provenance Bill, which the Minister, Deputy Coveney accepted here was the right way to go but whose introduction he said he would delay, as I understand the French are also going to do, until they have a European decision in this regard later this year. I mention those two items that were introduced in this House because they are becoming law elsewhere, not necessarily having come from this House. I suggest that when we come back next week, after winning the vote on Friday - the "Yes" side will be defeated and the people will have voted "No" to abolition - we should say as one body that we intend to reform the Seanad by passing a Bill to that effect. If all 60 Members agree to have this done before Christmas, we will show the rest what we can do when we are determined enough to do it and we will embarrass any Government that says it does not want to reform this House. I believe we can do it. We already have two Bills, but we do not need to pursue either of them to get this done. We might agree on a third Bill which might be entirely different. I believe there is room for reformation and I believe we can reform. We should proceed on that basis not as individual parties but as the Seanad as a whole. I think that should be done as early as next week.

Senator Marie Moloney: I would like to say "well said" to Senator Quinn.

I join Patricia King of SIPTU in welcoming the publication of the report of the Labour Court's review of joint labour committees. I am delighted that the Minister has accepted the report's recommendations and is putting in place the legal steps necessary for their implementation, as this will offer protection to low-paid workers.

I wish to highlight an error in the Comptroller and Auditor General's report on overpayments by the Department of Social Protection. The report said that 7% of the overall budget is accounted for by overpayments, but this is incorrect. He has corrected it now. The correct figure is less than 0.5% - 0.47%, to be exact. It is irresponsible of the Department of Social Protection not to take responsibility for errors that are made by officials in the Department. I will mention such a case. A young man who should have been receiving a jobseeker's allowance payment of €100 per week because he was under the age of 25 was given the full amount of €188 for a number of years. It is absolutely incredible that he has now been asked to pay back the additional amount from his current €100 payment. The mistake was made by officials in the Department after all the information was presented to them. I could understand the applicant being asked to pay the money back if he had withheld information or failed to submit all the documentation required. I believe the Department of Social Protection should take responsibility for the error, given that it was entirely responsible for it, and waive those overpayments. Perhaps the Leader will ask the Minister for Social Protection to come to the House to discuss this issue, which is causing financial difficulties for people who are trying to repay overpayments.

Senator Brian Ó Domhnaill: I want to join others in condemning the comments made by the Minister of State, Deputy Cannon. During his term as a Senator, he used this House for his political advancement as a member of the Progressive Democrats, as an Independent and as a member of Fine Gael. Now that he has left this House and become a member of the Government, it appears he has started to engage in the lies that are coming from certain elements within the Government parties. To be fair to Senators from both Government parties, in particular, it is not the case that everyone in the Government parties is acting in this way. The Minister of State, Deputy Cannon, needs to substantiate his claims or withdraw them today because they cannot be allowed to go unchallenged.

I have listened to much of the debate that has been taking place in advance of the referendum on Friday. One would expect members of the Government to be looking for a "Yes" vote, particularly in light of the commitment that was given before the last general election. However, I suggest that the most cynical element of the "Yes" campaign is coming from the Sinn Féin Party, which prides itself on representing ordinary people but has no difficulty in accepting the Queen's shilling even though its MPs do not attend sittings of the House of Commons or represent the people in the North of Ireland on any occasion. By choosing not to accept Dáil Éireann at 31 Dáil elections and the subsequent Seanad Éireann elections, it can be said that Sinn Féin did not accept the voice of the people as expressed on 31 occasions. Therefore, it is a bit rich of it to refer to an element of Irish democracy as elitist. I remind the House that in advance of the 2007 Seanad election, Sinn Féin entered into a murky little deal with the Labour Party to ensure Pearse Doherty was elected to this House.

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

Senator Brian Ó Domhnaill: Yes. Does the Leader agree with me that the three Senators who represent Sinn Féin, a party that claims this House is elitist, should resign their seats on Friday?

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

Senator Brian Ó Domhnaill: If they believe elitism is represented in this House, how can they be part of it?

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

Senator Brian Ó Domhnaill: Does the Leader agree with me that they should vacate their seats on Friday?

Senator Colm Burke: I want to pick up on what Senator Eamonn Coghlan said about voting. I was in the top five when our voting records were rated, but that does not put me above any other Senator. I am mindful of the valuable contributions made by Senators Crown, van Turnhout, Gilroy and Henry at meetings of the Joint Committee on Health and Children. It is totally inaccurate and unfair to judge people's performance in this House solely on the basis of their voting records. All Senators have made a valuable contribution to this House over the last two and half years. I know they will continue to do so over the next two and a half years.

I appreciate that we debated youth unemployment not so long ago, but we need to monitor it and perhaps bring it back on the agenda before Christmas. Last week, I had the privilege of meeting a 24 year old who was choosing between jobs in three countries. He does not have a third level qualification, but he happens to have the right qualification in the area he works in. His big dilemma was which country to take a job in. This case raises the whole question of whether our education system is focused on preparing people for where the jobs are. I understand that €150 million is available from the EU to alleviate youth unemployment. I suggest we should have a debate before Christmas to ascertain the extent to which progress has been made in accessing that funding, making sure we can get the best out of it for the young people of this country and ensuring youth unemployment is reduced and if possible eliminated.

Senator Fidelma Healy Eames: I had planned to raise the important issue of welfare and work this morning, but I will postpone that until tomorrow morning because I need to comment on what I saw outside the gates of Leinster House as I was coming in. I saw the former Minister, Alan Dukes, and the former Minister of State, Liz McManus, carrying a poster that said "End this failure" in reference to the Seanad. I am disgusted by how dirty this campaign is getting on the "Yes" side. All of it is linked to the Government. What if I was to say "End this failure" in reference to Anglo Irish Bank?

Senator s: Hear, hear.

Senator Fidelma Healy Eames: Who bankrupted this country? It was Anglo Irish Bank. Over 1,000 of our young people are leaving our shores every week. We are all suffering cuts because of the negligence in Anglo Irish Bank. If I was to say "End this failure", I would be referring to Anglo Irish Bank rather than the Seanad. We need to be careful in what we say. I do not believe in dirty campaigning, but I am afraid this campaign has become very dirty. I hear people from the "Yes" campaign saying every night, including last night, that every one of us in this House is a failed politician. I reject that not on my own behalf, but on behalf of everyone here and on behalf of those who preceded us and made massive contributions. The Minister, Deputy Bruton, was a Member of this House, as were the Ministers of State, Deputies White and Cannon.

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

Senator Fidelma Healy Eames: Yes. Are they are also calling themselves failed politicians? I doubt it. I support my esteemed colleague, Senator Quinn. Next week, I hope the people will have seen through the dirty campaign and will have read the subtext for a "No" vote to retain and reform the Seanad.

An Cathaoirleach: A number of Senators have indicated that they wish to speak.

Senator Fidelma Healy Eames: I ask the Leader to allow us to move No. 44, motion 8 on the Order Paper. It is a motion Senator Bradford and I have tabled which calls for a cross-party, all-grouping agreement on a reform package to be put before this House on which I know we will agree.

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

Senator Fidelma Healy Eames: The motion calls for the report of such proposals to be put before the House no later than 20 February 2014. We have exciting plans for reform.

Senator Jimmy Harte: Following on from Senator Ó Domhnaill's assertions about Sinn Féin, I recently took part in a debate with Deputy Pearse Doherty on Highland Radio. He had the temerity to call this institution an affront to democracy and I challenged him on that. For anyone living in the Border areas, listening to Sinn Féin politicians refusing to condemn the murder of Irish citizens and innocent people was the affront to democracy, not the Seanad. Some former Senators, and we all know who they are, have really kicked this around for some reason. They see it as a threat to them. As Senator Ó Domhnaill noted, Sinn Féin has zero credibility when it comes to the issue of democracy. Nobody can contradict me on that.

I ask for a debate on the outcome of the Convention on the Constitution on Sunday where it was agreed that voting rights in presidential elections be extended to citizens of Northern Ireland. We need to be careful here because the President has power to refuse to dissolve the Dáil and to refer Bills to the Council of State. For citizens from outside the Twenty-six Counties to have a say in that is going down the constitutional route. I received an e-mail from a constituent yesterday who told me they had no problem with giving voting rights to people from Northern Ireland but queried why people in Donegal do not have voting rights in Northern Ireland because what happens in Derry affects Donegal. What the Convention on the Constitution is saying is that people in Derry can have a say in Donegal but people in Donegal cannot have a say in Derry. It is a two-way street. The convention should not be all about nationalism. There are two communities in this country and we should embrace both. The convention must be careful in making a populist and ill-judged decision.

Senator Labhrás Ó Murchú: I do not easily buy into conspiracy theories but in recent weeks, conspiracy is not far removed from the "Yes" campaign to abolish the Seanad. One should look at some of the people who have come out on behalf of that campaign. Some of them have been rejected by the electorate in the past while some of them have not been exactly successful as public figures. Others are beholden to Government while others are living in expectation of getting something in the future. When I see all those people coming together added to what we hear about two former Ministers involved in a very crude exercise outside the gates of Parliament, I must ask why. I am now coming to the conclusion that the drive for the abolition of the Seanad is not coming from within this country. It is coming from outside this country and the lid is being kept on it in case it might come out before the referendum. There can be no other answer.

I went on radio to debate this issue with one of the people involved in the exercise outside the gates. From his responses, it was more like he was on my side and agreeing with what I was saying. He agreed that the figure of €20 million did not stand up and that the reduction in the number of Deputies would be no more than eight. He was meant to be supporting the

“Yes” campaign. I am convinced that in the coming weeks, we will learn how murky this campaign was and how we lost control over our destiny and sovereignty to influences who were not elected by the people. We are talking about democracy at a time like this. If there was any spirit left in us, we would all walk out to the gates of this building tomorrow during an adjournment period and stand up for ourselves, because if the media will not come in and cover the contributions, let the mountain go to the gate outside. What I have heard this morning about the activities in which those two former politicians are involved suggests we need more answers to the questions that have been raised. We have not received those answers. We are going to be celebrating and commemorating the centenary of the 1916 Rising in a couple of years. In the name of God, what will we commemorating and celebrating? If the sacrifices were worth anything, it was to give us control of our own destiny as it is enshrined in the 1916 Proclamation. We are not doing that. Are we fit for purpose?

Senator Paul Coghlan: Senator van Turnhout raised a serious issue regarding the use or non-availability of the audio-visual room which is important to us all, individually and as groups. This House has a proud record of engagement with civic society through the Seanad Public Consultation Committee and the efforts of our Leader, on which we are all agreed. I urge the Cathaoirleach to summon the Committee on Procedure and Privileges Sub-Committee on Seanad Reform to have a calm look at this matter.

I very much support Senator O’Sullivan’s comments on that famous race meeting in Listowel, which is the literary capital of the kingdom. It is not just important to Kerry but to the entire south of Ireland. I do not know what to say about it. Perhaps it is shameful. I would like to go with the Senator to the Minister for Agriculture, Food and the Marine because it is an important matter.

Senator John Gilroy: Reference was made to statements made by my colleague, the Minister of State at the Department of Health, Deputy White. I want to put on record that regardless of whether we agree with what he said, he is probably the only person who has actually put up a proper argument in favour of abolishing the Seanad. He has published a very good paper on his website. We must disagree with it but at least we can engage with it, unlike most of the other arguments I have heard for abolition of this House. I disagree with him but at least it is a proper argument. In fairness to the Minister of State, he has taken the time to put his thoughts on paper, unlike everybody else in the debate.

Some Senators mentioned the closing of the audio-visual room to NGOs. I also tried to book it yesterday only to be told that it was only available to schools and committees launching reports. It struck me that this is the people’s Parliament and we should strive to open rather than close it. It seems there is a move afoot to close down discussion, critical debate and even democracy in this country. Perhaps the Government’s next move might be to curb the media. Perhaps we should reduce the amount of reporting the media is allowed to do. It would not surprise if that was the next thing.

Senator Moloney referred to the report of the Comptroller and Auditor General. Given the outlining of the misspent money and waste in the system, will anybody in this country ever be held accountable for wasting money?

Senator Mary Moran: Could the Leader bring in the Minister for Justice and Equality to comment on *de facto* applications? I have recently received representations from citizens looking for *de facto* applications. A reply to one parliamentary question to the Minister indicated it

takes three months. Since June, it now takes six months. The timeframe must be clear. I call on the Minister to attend the House to clarify the situation.

I wish to discuss a number of the issues that have been raised this morning.

An Cathaoirleach: Briefly, please.

Senator Mary Moran: I have noticed that several Senators were allowed to raise three issues. I beg the Cathaoirleach's indulgence.

Several Senators referred to the comments of Sinn Féin Senators. I will extend it further to Government Senators who have come out in favour of abolishing the Seanad and readily agreed that a Senator's job is not worth doing. There will be a lot of relaying of consciences next week. I am in the Seanad to do the job that I was put here to do,-----

Senator s: Hear, hear.

Senator Mary Moran: -----to speak my mind and to raise issues about which I feel passionately. To call me or any other Senator worthless or to claim that our jobs are not worthwhile is offensive.

It is appalling that, once again, awful cases of child sexual abuse have hit the headlines in today's newspapers. I extend my commiserations to the families involved, including the lady who stood out, waiving her right to anonymity, to get justice for a heinous crime that was committed while she was aged between five and 11 years. Equally appalling is the fact that last night's television report that one of her relations had been well aware of the crime and that the defendant had admitted to raping his niece to a Member of the Oireachtas and the leader of a political party, has not been taken up-----

An Cathaoirleach: The Senator is out of order.

Senator Mary Moran: This was admitted in 2009 but has not been taken up. I really think that,-----

An Cathaoirleach: This has no relevance to the Order of Business.

Senator Mary Moran: -----if we are to have a democracy and a House, we need a Government that is answerable. This needs to be answered and the Opposition needs to be taken to task. These questions need to be answered.

An Cathaoirleach: This is not relevant at all to the Order of Business.

Senator Mary Moran: It is very relevant.

An Cathaoirleach: The Senator is completely out of order.

Senator Michael Mullins: I support Senator Quinn's fine proposal. I hope that the Leader will flag our willingness after we win the referendum next Friday to work on a proper reform package. I am appalled that two former Ministers on fine, hefty pensions are outside the House today denigrating this Chamber's work as well as the fine Members elected to it.

I call for a debate on tolling policy following yesterday's announcement by the Minister for Transport, Tourism and Sport, Deputy Varadkar, of a one-month toll holiday in November

on the M1, M3, M6 and the Limerick tunnel to encourage the owners of heavy goods vehicles, HGVs, to use the motorways that were built to carry heavy traffic. Large numbers of HGVs are using regional and local roads to avoid tolls, driving through towns and villages, causing damage to the roads and posing a serious hazard. In debating this issue, I hope that the House may be able to make the toll charges more attractive to owners of HGVs so that they might continue using roads for the purpose for which they were intended.

I hope that we will have an opportunity to examine the deals made in respect of public-private partnerships, PPPs, to determine whether we are getting good value for money and whether the State should consider renegotiations or making other arrangements.

Senator John Kelly: I support my colleague, Senator Moloney, in respect of social welfare overpayments. As I watched her on the monitor, I was dealing with such a case. A lady who was widowed 16 years ago received a widow's pension and informed the Department when she got a job two years later. It did not act on that information.

An Cathaoirleach: The Senator can raise that issue as a matter on the Adjournment.

Senator John Kelly: Ten years later, the Department sent her a bill for €54,000 when the mistake was clearly its own. Like Senator Moloney, I call on the Minister to ensure that the onus to repay should not be on the person in such cases.

An Cathaoirleach: The Senator should table a motion on the matter.

Senator John Kelly: This is purely a mistake by the Department. It should live with the loss.

Senator Maurice Cummins: We have had a marathon session. Senator White, the acting Leader of the Opposition, recalled that yesterday was the UN international day for older persons and called for a debate on people in care and the rights of older people. I will try to facilitate such a debate. As Senator Bacik mentioned, our public consultation committee published a report on older people that was well received by all. It would be interesting to see what progress has been made on the House's recommendations. This could form part of the debate.

Senator Bacik called for a debate on the Middle East, particularly Syria. I will ask the Tánaiste to debate the issue in the House. I have made several requests to the Department in recent months. He appeared before the Joint Committee on Foreign Affairs and Trade, but I will endeavour to arrange for him to appear before the House as soon as possible.

Senators van Turnhout, Conway, Cullinane and others referred to a decision of the Dail Committee on Procedure and Privileges, CPP, not to allow non-governmental organisations, NGOs, into the AV room anymore. At a time when we are discussing the inclusion of experts to assist Members in formulating policy, this is a retrograde step. This matter will be discussed by the Seanad CPP, although I am not quite aware of our position.

An Cathaoirleach: I will arrange a meeting of the CPP later today.

Senator Maurice Cummins: I thank the Cathaoirleach. That will assist us. Senators Barrett, Wilson, Ó Domhnaill and others raised the issue of the Minister of State, Deputy Cannon, which was also raised yesterday. My office has been in contact with his office. I am told that he will not make further comment on the matter.

Senator Marc MacSharry: Scandalous.

Senator Maurice Cummins: He is in Turkey. This is the reply that I received from his office.

Senator Eamonn Coghlan referred to positive ageing week and the points for life initiative, which he initiated. We are all glad that the pilot programme is starting today. It is another positive initiative that commenced in this House but went unnoticed.

Senator Quinn outlined other initiatives that have been taken in this House. The health committee has rightly received excellent publicity for a decision taken yesterday on the question of organ donation, yet that decision was taken in this House five years ago. There was little or no coverage of it. This shows how slowly the wheels can grind at times. When initiatives are not reported by newspapers, it is difficult for people to understand what is happening in this House.

Senator O'Sullivan asked about a grant for dealing with animals in distress. The issue could possibly be raised as an Adjournment motion. Like Senators Noone and Senator O'Sullivan's fellow Kerry Senator, he also raised the question of the Listowel Races. They say that all politics is local, and it certainly is in this regard. It is unfortunate that there will be a clash between group 1 races at Leopardstown and the Curragh and the Listowel Races, a long-established meeting that is of paramount importance to the economies of the region and the town. I have endeavoured to arrange for the Minister for Agriculture, Food and the Marine, Deputy Coveney, to attend to House to debate CAP reform and Horse Racing Ireland. I will renew my calls to him to come to the House to address those matters.

Senator Landy spoke about the plight of carers and in this regard and mentioned the €20 charge for blood tests, prescription charges and so on. These are matters which, as stated by Senator Landy, may be addressed in the budget and on which the Carers Association has made submissions to the various Ministers. I am sure they will be taken on board.

I have already addressed the issue raised by Senator Wilson in relation to the Minister of State at the Department of Education and Skills, Deputy Cannon. Senator Conway raised the issue of his being unable to book the AV Room for a meeting with the Deaf Society of Ireland. As stated by the Cathaoirleach, the Committee on Procedure and Privileges will be convened today to discuss the matter.

Senator Cullinane called for a debate on workers' rights. As rightly pointed out by the Senator, a number of Bills on the matter will be coming before the House. However, I will try, if possible, to arrange for a debate on workers' rights prior to their coming before the House. I agree we had a very good exchange with David Begg last week.

Senator Hayden spoke about the contribution of Senators to legislation. It is important to again state that the role of this House is not to block legislation but to improve and enhance it. During my time as a Member of this House, practically every piece of legislation that has come before it has been improved and enhanced by Members of the House from all sides. On the request to invite the Minister for Finance to attend the House for pre-budget discussions, I can assure Senators that it is not for the want of asking that this has not happened. I will continue to ask but the budget is practically upon us.

Senator MacSharry is a member of the Oireachtas commission. He told the House that it has never stated that the operation of the Seanad costs €20 million. He also called for the in-

tervention of the Minister for Health in relation to the dispute involving junior doctors. I am sure the Labour Relations Commission or other parties will intervene on that matter before next Tuesday.

Senator Noone spoke about the issue of parking spaces for taxis. We can discuss this issue with the Minister but it is primarily a matter for local authorities. Senator Quinn also raised the issue of presumed consent in relation to organ donation, which I have already addressed. He also spoke about the food provenance Bill which he introduced. Similar provisions are currently being put in place in France. On the Senator's question in regard to reform of the Seanad, this matter will have to be considered next week if the "No" campaign wins. This matter was also raised by Senator Healy Eames.

Senator Moloney spoke about the review of joint labour committees in the context of protection of low paid workers and about errors made by the Department of Social Protection, an issue also raised by Senator Kelly. While this should not be happening, it is happening. If the individual cases cannot be addressed by way of an Adjournment motion I am sure they can be discussed in the context of the social welfare Bill, which will probably come before the House before the end of this month.

Senator Ó Domhnaill raised an issue in relation to Sinn Féin. I do not propose to get into an argument between Fianna Fáil and Sinn Féin. However, it is not so long ago that Sinn Féin did not recognise the courts or institutions of this State. I am sure it would be very happy to see one of the institutions go. That is its policy. As regards the vacation of seats, it is a matter for each Senator to decide following the referendum whether or not to do so.

Senator Burke raised the issue of youth unemployment and European funding for same. We have already had a couple of debates on youth unemployment. However, we cannot have enough of them. It is an important issue. I will try to arrange for a further debate during this session.

I note Senator Healy Eames's comments in regard to the Seanad abolition referendum. While I agree with much of what the Senator said, I do not propose to get into personalities outside or inside the House.

Senator Harte referred to former Senators of this House who used their position to further many causes, and rightly so, and are now condemning the House. However, that is their prerogative. They can change their minds if they wish. On the Constitutional Convention, I am sure we will have a discussion on the voting rights of Northern Ireland citizens in presidential elections. I note Senator Harte's point in regard to Donegal and Derry and whether Irish citizens in Donegal should also have a vote in Derry elections.

Senator Ó Murchú made some strong points in relation to the Seanad abolition campaign. As I said, it is difficult for people to know of the good work that goes on this House when it has not for decades been covered by the media. With the exception of a former journalist with the *The Irish Times*, Jimmy Walsh, the media has forgotten this House. It is no wonder then that people are not aware of the good work being done here.

I have already addressed the issues of the Listowel Races and the CPP meeting as raised by Senator Paul Coghlan. Senator Gilroy also spoke of the closing of the AV rooms to NGOs. I note the points made by the Comptroller and Auditor General in this regard in terms of accountability and transparency.

Senator Moran raised a number of issues, including the delays for *de facto* applications. I will bring the matter to the attention of the Minister for Justice and Equality. The Senator also commented on a court case, on which I do not propose to comment at this point.

Senator Mullins called for a debate on tolling policy and the measures introduced by the Minister for Transport, Tourism and Sport, Deputy Varadkar, in relation to HGVs. I will endeavour to have the Minister come to the House for an overall debate on transport, including tolling policy.

Senator Kelly raised the issue of social welfare overpayments. The specific issue raised can be dealt with by way of an Adjournment motion. As I stated earlier, I am sure these matters will be addressed in the social welfare Bill when it comes before the House at the end of this month.

Order of Business agreed to.

12 o'clock

County Enterprise Boards (Dissolution) Bill 2013: Order for Second Stage

Bill entitled an Act to provide for the dissolution of County Enterprise Boards and the transfer of their functions to Enterprise Ireland; and to provide for matters connected therewith.

Senator Cáit Keane: I move: "That Second Stage be taken today."

Question put and agreed to.

County Enterprise Boards (Dissolution) Bill 2013: Second Stage

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

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): I welcome this opportunity to present the County Enterprise Boards (Dissolution) Bill 2013 to the Seanad. The purpose of the Bill is to give effect to last year's Government decision to reform the system for the delivery of State supports to micro and small enterprises by dissolving the current county enterprise boards structure and creating an enhanced enterprise support model to be delivered at local level by a new initiative establishing local enterprise offices. The creation of the local enterprise offices will result in the establishment of a local first-stop shop for new entrepreneurs and existing micro-enterprise and small business owners. The offices will become the front door, so to speak, through which all information on State supports for small and micro-businesses can be accessed and signposted and through which other supports and bodies with programmes relevant to small business as well as important local services and compliance requirements can be provided. In summary, the new local offices will deliver the following under one roof: local entrepreneur support programmes, a suite of other enterprise

supports and development services, and other business development services of the local authority. We will have a renewed local emphasis on enterprise and job creation, combining the best of the community enterprise boards, local authorities and Enterprise Ireland.

I propose to outline first some background to the rationale for reforming the system for delivery of supports to micro-enterprise. At both national and local level, the indigenous micro-enterprise and small business sector - the lifeblood of our economy - is central to economic recovery, job creation and the future development of the economy. Our vision is to ensure locally accessible supports are available that will nurture entrepreneurship and promote the creation and maintenance of employment, with a dedicated culture of delivery. This reform is a major commitment in the programme for Government and a core element of Action Plan for Jobs. In recognition of the changes to the social, economic and technological landscape of Ireland in recent years, this strategic reform of the system for delivery of support to businesses will make the operating environment more coherent, responsive and conducive to entrepreneurship at local level.

County and city enterprise boards have had an impressive track record in job supports over the past 20 years. The local enterprise offices structure will draw and build on the positive enterprise culture of the successful county enterprise board model which supports 33,000 jobs, 900 new projects per annum and almost 25,000 training participants. Under the new arrangements, the local enterprise offices will deliver tailored supports to the highest standards, in a partnership between the local authorities and Enterprise Ireland based on a robust service level agreement. The proposed reforms offer a major opportunity to leverage the skills, resources and experience of the county enterprise boards, Enterprise Ireland, local authorities and the local business community to create an on-the-ground approach to local entrepreneurs and small businesses, which dovetails with national enterprise supports and agencies.

As part of the reform of the system of local enterprise supports, the first-stop shop service will be delivered through a network of 31 local enterprise offices nationwide. The offices will deliver the combined functions of the county enterprise boards and business development units of the local authorities, as well as developing an enhanced service to business at local level. The local enterprise offices will be the first-stop shop through which all information on supports for entrepreneurs and small and micro-businesses can be accessed. Where businesses have clear high growth potential, they can be fast-tracked to the next level of support from Enterprise Ireland or other State agencies.

Locally, the local enterprise office will act as the catalyst and advocate for the establishment of a best practice enterprise culture. It is envisaged that there will be a high level of co-ordination and collaboration between local enterprise offices and other providers of support to the micro and small business sector, for example, chambers of commerce, institutes of technology and Leader partnership companies. There will also be greater co-ordination of delivery of services between local enterprise offices in each area and other actors to support a regional strategy for enterprise and jobs. They will be incentivised to come together to pool expertise and resources and co-operate on a regional basis to deliver various services, for instance, running joint training and mentoring programmes. A competitive funding element will also be designed and introduced to support the best projects to demonstrate success and best practice and encourage high performance and innovative ways of working across the local enterprise office network.

The local enterprise offices will be supported by a centre of excellence, which has already been established within Enterprise Ireland. The centre will lead, develop and manage the en-

hancement of a support service that generates innovative small and micro-enterprises capable of increasing employment, exports and value added to the economy. In practical terms, the local enterprise offices, enabled by the centre of excellence, will draw upon a first class online support resource which will offer a range of tools and information relevant to all businesses in the State. The centre of excellence, which is up and running, will have a high capacity and will enable local enterprise office staff and companies to identify startup and development issues and signposts to appropriate supports. A newly developed website will proactively promote a range of tailored State supports, both financial and non-financial.

A key aspect will be self-assessment tools and best practice case studies. In addition, the functions of the centre will include the following: promoting innovation and best practice in the approach to supporting start-up and entrepreneurship; working in conjunction with local enterprise offices to design and deliver appropriate national training and management development programmes at local level; developing a common approach to mentoring and mentor management; providing ongoing training and development for local enterprise office staff; reviewing and benchmarking the services and supports available from each local enterprise office to promote best practice; developing and reviewing the service level agreements and promoting high levels of performance and appropriate metrics; and developing and overseeing metrics on the quality of the local business environment.

The local enterprise offices will be underpinned by a robust service level agreement between Enterprise Ireland and each local authority which will set out protocols relating to the following: budgets, project evaluation and approval; micro-enterprise policy guidelines, as articulated by the Department of Jobs, Enterprise and Innovation; robust performance indicators measuring employment, start-ups and other metrics; roles and responsibilities of the relevant bodies, namely, Enterprise Ireland, local authorities and local enterprise offices; benchmarking the success of local enterprise offices; and corporate governance.

This detailed service level agreement will provide a framework for the delivery of an enhanced service to micro-enterprise and will be periodically reviewed to ensure impact and value for money are being optimised via the local enterprise office network. A key element of this new structure will be the consistent application of the policy and best practice across all local enterprise offices from the evaluation of applications to the spending of budgets allocated. This will be monitored using the agreed service level agreement in each local authority. The ongoing drawdown of budgets by LEOs will be contingent on their reaching agreed targets. The highest level of corporate governance will be applied. This will involve the articulation and dissemination of the new national micro-enterprise model, the allocation of budgets in line with agreed funding guidelines, including spot-checking and quality assurance, the management of assets and liabilities, and ongoing engagement with stakeholders.

To ensure that local enterprise offices are delivering best practice supports for entrepreneurship, research into international programmes will be carried out in conjunction with the evaluation of current programmes run by the local enterprise offices. A series of metrics form part of the framework service level agreement and will be tailored to suit the size and capacity of each local enterprise office. They will be included in a local enterprise development plan, to be agreed annually between the local enterprise offices and Enterprise Ireland, which will serve to address the development needs of micro-enterprises in each county.

Financial and staffing implications will arise from the Bill. It is to be expected that over time there will be some savings resulting from the removal of costs associated with the indi-

vidual company status of each county enterprise board and reduced rental costs associated with the relocation of some offices. However, initial direct savings will be modest because it could take some time to realise these savings due to existing rental arrangements. Some small additional initial expenditure will be needed, for example, for staff training and to develop a single local enterprise office website to replace the 35 existing sites. There will be no savings on staffing arising from the dissolution of the county enterprise boards because existing staff will be redeployed to the LEOs.

Section 1 defines certain terms used in the Bill. Section 2 defines the functional area of a city and county council for the purposes of the legislation. Section 3 states that any expenses incurred in the administration of the Act shall be paid out of moneys provided by the Oireachtas. Section 4 empowers the Minister to appoint, by ministerial order, the day on which the county enterprise boards shall be dissolved. Section 5 enables the Minister to dissolve the county enterprise boards on the appointed day.

Section 6 relates to the transfer of functions. It provides for the following: the transfer of the existing functions of the county enterprise boards to Enterprise Ireland; the transferred functions to be performed by a local authority, in the functional area of that local authority, on behalf of Enterprise Ireland; and for the amendment of section 10 of the Industrial Development Act 1995 by deleting the words “subject to the prior consent of the Minister” because Enterprise Ireland already has the enabling powers specified.

Section 7 provides for all land and other property, including assets, previously vested in county enterprise boards to be transferred to Enterprise Ireland. It provides for all rights, powers and privileges relating to or connected with such lands to be vested in Enterprise Ireland without the need for a conveyance or assignment. Section 8 provides for the transfer of rights and liabilities of a county enterprise board to Enterprise Ireland. It also provides that in the event of an action to sue, recover or enforce, Enterprise Ireland may do so in its own name without the need to give notice of the transfer to the person whose right or liability is transferred. Finally, it provides that any lease, licence, wayleave or permission granted by a county enterprise board shall continue in force as if granted by Enterprise Ireland.

Section 9 will allow any claim in respect of loss or injury alleged to have been suffered during the performance of county enterprise board functions to now lie against Enterprise Ireland. It allows Enterprise Ireland to take the place of a county enterprise board in any legal proceedings to which that board is a party immediately prior to the transfer. Section 10 ensures that anything commenced by a CEB, for example, loan agreements, grants, equity investments, etc., do not fall on the transfer to Enterprise Ireland of the functions, assets and liabilities of the county enterprise boards.

Section 11 empowers the Minister to designate staff of a county enterprise board to Forfás, Enterprise Ireland or a local authority. Section 12 provides for Forfás, Enterprise Ireland or a local authority to accept staff into their employment who were previously employed by a county enterprise board on terms and conditions no less favourable in respect of remuneration. This section also amends the Second Schedule to the Industrial Development Act 1993 in respect of the secondment of staff. Section 13 sets down the provisions relating to the preparation and submission by Enterprise Ireland of final accounts and reports of the county enterprise boards. Section 14 provides for the Short Title, County Enterprise Boards (Dissolution) Bill 2013, and commencement.

I emphasise that these reforms are about delivering improved supports at local level to more businesses and ultimately about creating more jobs. Micro and small enterprises are a central part of our economy and their ability to succeed and grow underpins our future potential for jobs, growth and prosperity. Fully 98.5% of all firms are small. They employ over 650,000 people throughout the country. It is vital, therefore, that we continue to focus on delivering a practical programme of actions and enhanced supports that can achieve positive improvements to the operating environment for micro and small businesses.

Senator Mary M. White: It is my pleasure to welcome the Minister of State to the House and to speak to the County Enterprise Boards (Dissolution) Bill 2013. Altogether 98% of Irish enterprises are micro or small enterprises. They employ 622,000 people and contribute €10 billion to the Exchequer each year. Micro-enterprises are defined as enterprises with a turnover of under €2 million and fewer than ten employees. A small business is defined as employing ten to 49 employees with a turnover of €10 million. The County Enterprise Boards (Dissolution) Bill 2013 will dissolve the existing county and city enterprise board structure and transfer the functions, land assets and other property and liabilities to Enterprise Ireland. The Bill empowers the Minister to deploy existing staff of the enterprise boards to Forfás, Enterprise Ireland or a local authority. Staff will keep their jobs at their previous terms and conditions in one of these organisations. Local authorities will perform functions on behalf of Enterprise Ireland until the new local enterprise offices, which will be known as LEOs, emerge.

Fianna Fáil opposes the dissolution of the county and city enterprise boards and the subsuming of their role into local authorities. This decision by the Government is part of a pattern of Government decisions which has more to do with creating an illusion of reform rather than delivering real results. Local authorities do a good job within their currently defined role of housing, planning, recreational facilities, etc., but, by their nature, they are not entrepreneurial and do not have the experience that start-up companies need. There is a strong need to streamline and retain the existing structure with greater co-operation across city and county enterprise boards and to share best practice ideas while retaining the ability to respond to specific local needs. Concerns relating to future funding have not been addressed and there is a strong likelihood that the change will lead to less money being available to support local enterprises.

I draw the attention of the Minister of State to the farce of the microfinance money that is available. The scheme is lauded by the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, relentlessly but he is talking through his hat as far as I am concerned. I express my disappointment at the early results of the Microfinance Ireland scheme. To date, one year after the scheme was launched, approval rates are at less than 45% and just over €1 million in loans have been granted to small business. Moreover, a 9.5% fixed interest rate is charged on all loans with a three-year repayment term.

This provision of €1 million in the first year is far off the initial target of granting €90 million in loans over a ten-year period, which is highly unlikely to be met. While I am not accusing the Minister of State in this regard, this is spin on the part of the Minister, Deputy Bruton, along with the lies he is telling about the Seanad. For God's sake, 45% approval to help small business people start up is a farce. It is a camouflage for not doing anything while glossing over such a rate, as though something was happening on the ground when money is not available. In my experience, the county and city enterprise boards have been sadly neglected over the years by the Department of Jobs, Enterprise and Innovation. There was no overall strategic plan, some were better than others and there was no leadership from the Department. Again, there was what one might call a bureaucratic mishandling of the entire issue of the county and

city enterprise boards. The McCarthy report of 2009 recommended that the functions of the enterprise boards be transferred completely to Enterprise Ireland. However, the report of the local government efficiency review group published in 2010 recommended, as was natural for it, that the county and city enterprise boards be merged with local authorities.

As for the model of the enterprise boards, more than 33,000 jobs nationwide have been created since 1993, as well as an average of 900 projects per annum and almost 25,000 training participants per annum. An examination of the projects assisted by enterprise boards throughout Ireland over the last year shows a wide breadth of new business activity. Most do not involve research and development or scientific innovation, which tend to get so much attention these days but they are highly effective at creating local sustainable employment. Oisín Geoghegan, chief executive officer of the Fingal County Enterprise Board, has commented that the vast majority of the projects it sees are ordinary rather than high-tech but they do provide employment. One good result, which was highlighted in *The Irish Times* earlier this year, concerned Sandra Maguire, who was supported by her local enterprise board of Dún Laoghaire-Rathdown and who produced the education bills app, EduBills, for schools.

The county enterprise boards will be dissolved in their current legal format and as I indicated earlier, their functions, assets and liabilities will be transferred to Enterprise Ireland. Enterprise Ireland is being mandated to work with the local authorities to develop benchmarks for service delivery and enterprise supports, as well as appropriate structures and delivery models for each local enterprise office, LEO. As for Fianna Fáil's reasons for opposing the dissolution of the county enterprise boards, the measure smacks of reform for the sake of reform without a detailed plan for how the changes can be implemented. I reiterate the county and city enterprise boards have proven to be one of the one of the most effective supports provided to small local business. Importantly, the board members are drawn from the local authority, representatives of the trade union movement, local employers, State agencies, local businesses, local councillors and the county or city manager, as well as representatives of Enterprise Ireland, the Irish Congress of Trade Unions, ICTU, and IBEC, all of whom give their time voluntarily. One risks losing the breadth of experience provided by the 15 people who are members of these boards. They do this at their own expense and a discussion is required in this Chamber in the future about the amount of time-----

Deputy John Perry: That will continue, as those boards still will be in place.

Senator Mary M. White: We will see. A public debate and discussion is required about the amount of volunteering time that Irish people do for organisations nationwide. Moreover, such people never get recognition from the Government. It is never put on the radar that so many people give so much of their time free to help their local communities. The Fine Gael-Labour Party Government set itself the task of abolishing quangos. That agenda was expedient in opposition but it undermines excellent work being done by the enterprise boards. Moreover, it will not achieve any savings for the taxpayer but will make it more difficult to create and sustain jobs. There have been outrageous attacks on the competence and professionalism of county and city enterprise boards staff across the country and this has been unfairly used as a basis for this decision. I reiterate that I lay the blame for this on the Department of Jobs, Enterprise and Innovation. That Department lacked a strategic plan, did not have a timeline for each enterprise board for the delivery of jobs and so on. They were neglected, including financially, by the Government. I believe the Minister for the Environment, Community and Local Government has upstaged the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, at to where the LEOs would go. My instinct and suspicion is that the Minister, Deputy Bruton, wished to have

them under the aegis of Enterprise Ireland but the Minister, Deputy Hogan, seems to want them to operate under the local authorities. I am greatly concerned by this development.

Councillor John Brassil of Kerry County Council has commented on the change and desires that the new local enterprise offices will operate consistently and effectively throughout the country. Moreover, key performance indicators and measurable outcomes must form part of the new structure, although this was not done by the Department. Councillor Brassil also underlines that from a local authority perspective, there must be greater flexibility regarding many areas, such as planning, rate charges and development levies. These details must be considered. Councillor Mattie Ryan of North Tipperary County Council has voiced concern that in counties in which the local authorities will be merged, such as Tipperary, there is a risk that services to new and existing businesses will be diminished rather than enhanced unless the correct supports are put in place and made accessible to entrepreneurs. The chairperson of the Cavan Enterprise Board, Mr. Jack Keyes, has called for the local dimension to be paramount in any future arrangement. Mr. Keyes also highlights that boards are well served by the voluntary effort of the board and evaluation committee members. I myself was honoured to be asked to serve in that capacity by the former city manager, Mr. Frank Feely, and was appointed in 1993 to the evaluation committee of the first Dublin City Enterprise Board. As a new and embryonic entrepreneur at that stage, I still was able to make my contribution to the aforementioned committee. Interestingly, the chief executive officer of the Donegal County Enterprise Board, Mr Michael Tunney, poses the question as to whether there are sectors of the economy that currently are excluded from accessing supports that should be included. For example, service and retail businesses in the main are not eligible for grant aid and this should not continue. Having tried to help and support a hairdressing salon in north Dublin recently, I acknowledge there are enterprises that are not eligible for a financial grant when they are not exporting but serious mentoring and guidance should be made available to those companies.

I accept this measure is on a roll, is coming through and that Members cannot do anything about it. While Enterprise Ireland will have a role as a centre of excellence, this move is crazy. Why were the new bodies not brought fully under the aegis of Enterprise Ireland? They still could have been locally-based. The Enterprise Ireland people are missionaries in the development of entrepreneurial culture in Ireland but one cannot say the same about the local authorities. It is not their remit and I acknowledge they do a good job in what they are doing.

Acting Chairman (Senator Diarmuid Wilson): Before calling Senator Keane, on behalf of Senator O'Neill I wish to welcome to the Visitors Gallery pupils and teachers from St. Colman's school, Clara, County Kilkenny. They are welcome to the Seanad.

Senator Cáit Keane: Cuirim fíor fáilte roimh an Aire Stáit chun éisteacht leis an díospóireacht tábhachtach seo. Cuirim fíor fáilte roimh an scoil go Teach Laighean freisin agus chuig an obair tábhachtach atá ar siúl anseo inniu. I reiterate my welcome for the Minister of State and the representatives of the school who are present for this important debate on the dissolution of the county and city enterprise boards. As the Minister of State noted, they are to be replaced by local enterprise offices, LEOs. Speaking of LEOs, I note the word "leo" comes from the Latin word for lion, which is the strongest animal. I look forward to seeing the LEOs or lions being the strongest element of local governance and local work with small and medium enterprises and that the local authorities, local elected representatives and communities will be involved in doing what they can to ensure small and medium enterprises are enhanced and helped at every opportunity. The Minister of State stated that a new website would be developed for the local enterprise offices, or LEOs. It is important that they carve out their own identity in the com-

munity. Local authorities have logos. I looked up the logo for the LEOs - the lion - which is a simple one showing a circle with an extension reaching out, as the local enterprise offices are doing, reaching out into the community. It is an apt symbol and very simple. Designers look for simplicity in symbols. The identity of the LEOs is to be part of but not lost in the local authorities so it is important to give them their own identify as a first-stop shop for entrepreneurs at local level. They will provide an integrated system of working with Enterprise Ireland.

The Bill conforms to the standard model of legislation for dissolution of State bodies and consequent transfer of staff, property and liabilities, as the Minister of State noted. It is part of a programme of reform that will bring together in one place the micro and small business supports that are currently provided by the county and city enterprise boards, Enterprise Ireland and the local authorities, allowing them to be the first-stop shop that everybody can get to know. The Bill will also remove anomalies in the current system and ensure that all micro and small businesses can access supports. It will establish a centre of excellence in every county and city in the country, in conjunction with the local authorities and Enterprise Ireland. These will have responsibility for setting policy and monitoring delivery. This last is most important, as another speaker noted - ensuring delivery of a world-class support for micro and small businesses in a consistent manner. Consistency is important because very often the county and city enterprise boards had the same idea but took different routes, some of which worked better than others.

Enterprise Ireland is an expert body with many years of experience in dealing with companies and budding entrepreneurs. Its priority is to deal with national and larger companies but the connection at local authority level is important. As the Minister of State noted, small and medium enterprises are the most important businesses in this country. They create jobs and therefore must be nurtured and supported. Enterprise Ireland has many different programmes for high-potential start-up companies with capacity and capability to sell into the export market, manufacturing internationally and traded services.

The county and city enterprise boards, CEBs, receive an Exchequer capital allocation each year towards the provision of grants and soft supports, and individual capital allocations are made within this. The Minister has set in place a way of doing this and it will be interesting to compare and contrast, seeing where money is spent, how it is spent and ensuring it gives value for money. We can compare and contrast this work with how the CEBs work now, how they worked in the past and how they will work into the future. Senator Mary White, who has a good entrepreneurial head, pointed out some issues in this regard.

I emphasise the importance of the voluntary boards of the local enterprise boards. The people who volunteer are not praised often enough. This voluntary capacity is one aspect of the current boards and I am delighted it has been put on the clár today by the Minister of State that it will remain. I served on an enterprise board when I was a member of South Dublin County Council. The business, political and community inputs of the board gel and work together to enhance the work and ensure that if one person does not come up with something, another person will. Everybody brings their own expertise and this aspect will not be lost.

The last speaker mentioned that local authority staff are not entrepreneurs. I spent 20 years on a local authority where I saw the advancement local authorities have brought about, bringing on local business development units within those authorities. I can only speak for South Dublin County Council where we developed lots of industrial units that worked with the local communities, providing buildings and facilities. That was not all - they also aided computer software development and that type of thing with the local business development units. In this

way the local authorities have a great deal of expertise to bring and, most important, they bring in the actual facility which is situated in a place people can get to know as a business development unit. What is more important? Developing roads is important; developing protection of the environment is most important, but developing jobs in the local community is what local authorities should also be doing. Every local authority in Europe is known for doing that - why should we be so different by doing it nationally? We are always talking about devolving power to local authorities - this initiative will do that to some authorities. It will not take the power but will work in co-operation with the LEOs, establishing businesses in and with the local community and its groups. It will also bring accountability through the system of locally elected representatives. Devolution of function to local authorities is one way to achieve this but it is also important to ensure that local development business units in that authority can act alone as stand-alone business units and become known for doing so. It is important for them to carve out their own identity, using symbols and logos.

These measures are designed to increase the number of start-ups and to ensure they survive. We have seen many start up but not all of them survive five years. To get them past that five-year pitch by giving a leg-up must be one of the major goals of the new LEOs. Every entrepreneur is not looking for a hand-out - all they need is to have a hand held and to be got onto the road. The local offices must ensure there are no obstacles put in the way of start-ups, ensure they have fewer forms to fill, give out whatever grants are available, and make all of this easier and more accessible.

I am also delighted to see support for and an increase in the number of start-ups by women; an increase in exports from microbusiness and small business, respectively; and an increase in the record of job creation and innovation in the sector. Female entrepreneurs, one of whom is Senator Mary White, must be supported in every sphere. A quota system has been brought in for the political arena and the EU is recommending a quota system for women on boards. Ireland has fallen down in this regard. This Bill has nothing to do with putting women on boards but the Minister of State must keep an eye open in respect of local authorities and boards of enterprise to ensure this outcome. I do not advance the case of women over men but putting women alongside men is important. Everybody brings their own expertise and everybody has a left and a right side of the brain which sometimes act differently. It is important to ensure that all genders are represented in all spheres of life.

It appears from the Minister of State's speech that the centre of excellence and Enterprise Ireland will lead, develop and manage the enhancement of a support service which is designed to increase employment and exports and ultimately create more jobs in the Irish economy. Governments do not create jobs but they show the way and help. One such way is that at local level local authorities will be involved in doing this on a statutory basis. It is not that they have not been involved before now but it will now be put on a more statutory footing. This service will in the first instance be handled by the LEOs. In turn, the centre of excellence will develop benchmarks, monitor progress and promote good practice. I look forward to reports on that which will go also to the local authorities.

Micro and small businesses are the lifeblood of the economy. As the Minister of State observed, they employ more than 650,000 people. I know a little about small businesses because I have three children, all of whom have their own business. Money is not the only support businesses look for; they seek that things be made easier, with less bureaucracy and form-filling required. The Minister of State has done much on this issue along with the Minister, Deputy Bruton, since we came to Government. The reforms are about delivering improved support to

more businesses in better and local locations, ultimately creating more jobs. When I was a local councillor I do not know how many times I was asked where was the county enterprise board. People did not know even though there was a sign over the door. It would be better if one could direct a person to the local authority and let it be known it is a business hub and ensure that world class services are delivered locally and uniformly across the country.

Senator Feargal Quinn: I welcome the Minister and the Bill. I believe we will get involved in many opportunities to enable us operate successfully. I wish to speak about SME access to funding. Access to funding is a massive problem for SMEs, an issue to which Senator White referred earlier. The Government is providing additional back-up funding for people who have been turned down by the banks and other lenders through its new micro-finance service. I am also involved with Linked Finance which is a crowd funding company that has massive success. This is not a commercial venture for me, it is more to establish job creation. More than 50 jobs have been created by it since it was set up a few months ago. It hopes to fund 200 companies by the end of the year.

Can the Minister explain what part, if any, crowd funding will play in his plan for the new one-stop shops? I am an enthusiast of crowd funding. The basic idea is that if a business has been in operation for at least two years and wishes to have finance, it promotes itself through Linked Finance, a crowd funding operation. People can lend it money and negotiate what interest they will pay. The SME decides what interest to pay and who to select. One could end up with a local butcher's shop which wishes to spend €20,000 on a new cold room. It advertises and gets the €20,000 from perhaps 200 or 2,000 people, each paying, say, €10 and agrees to pay them an interest on it. It also means the butcher has 200 or 2,000 enthusiastic customers. Future financing is likely to involve crowd funding. Given the attitude of the banks and unfortunately the fact that many SMEs are still unaware of the benefits or even the concept of crowd funding, it is vitally important that it is relayed to SMEs. Mr. Peter O'Mahony who set up Linked Finance summed up the concept as follows:

It is the first time that accessing finance has been this fast, fair and affordable, because it is not about, "how do I get access to the decision makers in that bank?", or "who do I know in that venture capital outfit?" This is all about proving your worth to your customers and fans, getting them to validate your idea and fund it.

Another suggestion is to allow tax credits to be converted to cash if a business hires an employee. Related to the issue of cashflow, could the tax credits for start-ups, including new retail outlets, be converted into cash? What start-ups need is cash but they need it now. If a start-up hired an employee, then the tax credit could be converted into cash. This exact initiative took place in the US and the cash incentive worked.

On the day President Obama took office, the US had less than 2% of the world market in manufacturing the high-powered batteries for hybrid or all electric cars. On the day of the congressional elections in 2010, thanks in large part to the tax-incentive policy, the US had 20% of global capacity, with 30 new battery plants built or under construction, 16 in Michigan, which had the second highest unemployment rate in the US. Can the Minister of State explain whether he would be open to trying out this initiative? I think it would be a super idea to try out to help SMEs.

People should be allowed more access to pensions to free-up cash. We suggested this idea before the budget last year and I know the Minister recognised its importance. It is a question

of businesses getting cash. At that time I advocated for the release of some pension funds to allow citizens some relief and get cashflow into the economy. I welcome the recent move to allow people access to 30% of their additional voluntary contributions, AVCs. This will help thousands of people in trouble. This very forward-thinking move is really helping people. I have received correspondence that this is life-changing for people. However, what the Government must realise is that people are being crippled by household debt and we should consider extending this initiative.

If a person or SME could access €2,500 tax-free from their pension tomorrow they could, say, pay off a credit card debt and several overdue bills. They could get back on their feet or even start their own business. It would also stimulate the economy. For example, they would pay for house renovations, holidays, and, perhaps, change their car. They would spend cash and it would get cash flowing back into the economy. This is totally against everything I heard in school and college, where people are encouraged to spend instead of to save. Our savings are very good and we are afraid to spend.

The possibilities for a person who can start up by accessing some cash are very exciting. If people can do this, then we have set the conditions for them to do something like starting their own business. This is what government should be all about - not simply giving them a job but giving them access to cash which is vital. To further this, we could set up a scheme where if an SME hired a person, it could access cash locked up in a pension. Now is the rainy day. Now is the time when SMEs need access to cash. We can do much more in this area.

Retailers and SMEs employing fewer than 50 employees should not be subject to the same regulations as big business and it should be made easier for them to take on workers. I ask the Government to examine the possibility of not imposing the same regulations on companies employing fewer than 50 people. We should not impose on micro-enterprises the same burdens as those placed on a multinational company. Should we impose the same legislation on a company of, say, 500 people and a company of, say, four people? We want to create jobs, establish start-up companies and help people who have a concept and want to start a business. Perhaps such persons should not be bound by the regulations and red tape applying to big businesses? In France many regulations come into force once firms employ 50 workers. We should consider doing something similar here. The difficulty is that if one has 45 workers and is tempted to take on another six, it means one has to operate under different regulations. Should Google be subject to the same regulations as a small food company employing five people?

Regulations are a huge deterrent to a person who wants to start a business, employ people and get off the ground. Businesses employing fewer than ten people should not be subject to the same regulations that apply to bigger businesses. There is a need to tailor regulations instead of a one-size-fits-all approach. It is an issue to which we should give serious thought. The EU has recently incorporated such thinking into any new legislative proposals. If we are to establish businesses and create jobs, the immediate ones will come mainly from the SME-retail area.

Another suggestion, which I had included before I read today's newspapers, is to get rid of Sunday payments to help retailers. Something must also be done about the old-fashioned system of Sunday payments. I note that the Minister is moving in this area with regard to hotels and restaurants.

We must review all regulations on the retail sector and introduce red tape challenge to help retailers. Can we improve the situation to make it easier to do business? Sweden undertook a

systematic review of all regulations in the 1980s. Any unjustified requirements were cut in a “guillotine” initiative. Mexico took a similar approach in the 1990s. In the UK, in 2005-10 a programme reduced the burden of regulatory compliance on businesses by 25% according to the Government. That amounted to savings for firms equivalent to £3.5 billion. New initiatives are under way such as the “one in, one out” system and the red tape challenge. The red tape challenge uses a public website where the Government gathers the views of the business community and the public and invites practical suggestions for alternatives. Anybody can access the website and comment on any particular statutory instrument identified for review. The feedback from those affected by regulation will inform Government decision making. When the period for comments closes, Ministers have three months to decide which regulations to keep and which to scrap, taking account of the comments provided. This exercise presumes that burdensome regulations will be removed if there are no good reasons for keeping them. We could do something similar here and I would like to see more done on this issue.

I wish to raise a particular topic that I have raised here before. The Minister will have heard me talk about it and I apologise for repeating myself. There is an understanding about the percentage tax rate. If income tax or company tax is reduced in a clever fashion then it will increase moneys for the Exchequer, a win-win situation. Taxes have been reduced in the past. Let me give an example. Close to 20 years ago the then Minister for Finance, Mr. Charlie McCreevy, announced that the betting tax would be reduced from 20% to 10%. Of course there was a huge howl that he was simply looking after his horsey friends in Kildare but he stuck to his guns. The following year he announced that the Exchequer had taken in more money at the 10% rate rather than the 20% rate. Therefore, he declared that he would reduce it further to 5%. One could not keep reducing the tax rate and when it reaches 0% one does not take in any money at all.

I am delighted to see the Minister of State in his chair. I remember meeting somebody, some years ago, who said that he always worried about anybody in authority who had never worried about where to get the money to pay wages at the end of the week. He was talking about Ministers for Finance in that case. A grocer makes a very good Minister because he will have had to balance the books and knows how to reduce a percentage and price in order to take in more money. That sort of thinking can help a great deal.

Some of the points that I mentioned are worth noting. I urge the Minister of State to show the same enthusiasm as he has done in the past couple of years and I hope that he will continue to do so.

Acting Chairman (Senator Michael Mullins): I thank the Senator and I call Senator Harte who has ten minutes.

Senator Jimmy Harte: I shall not need ten minutes. I welcome the Minister of State.

The measures that have been introduced are a step forward. However, we must ensure that there is not simply a change of name or location but a change of policy. Donegal and areas outside Dublin are not getting the same jobs boost as the east coast. Areas like Donegal and the Minister of State’s area of Sligo suffer a great deal of unemployment so we must target and develop the businesses in those regions.

Over the years the county enterprise boards have had to deal with a different economy but now the economy has changed. Therefore, it is important that the new local enterprise offices,

LEOs, focus on creating sustainable jobs in areas other than Dublin which seems to be progressing very well.

Senator Quinn has left but I wish to refer to his comment on pension funds, an issue that I was going to raise at some stage. I spoke to an employee of an American company in Donegal that administers pensions in the US. I am sure that people are aware that in the US one can borrow against one's pension but pay it back without defaulting. That is a very strict system. As Senator Quinn has said, it would be helpful if a person with a pension of €0.25 million could pay it back at a reasonable interest rate. However, if he or she misses one payment then the penalty would be much worse than on a normal missed payment to a bank or a credit card company. It is a very strict scheme but gives a person an opportunity. The fact that it is a person's pension fund then it must be reimbursed. A person can benefit as long as the fund is replenished by he or she paying the money back at a certain interest rate and reaches retirement age. We should introduce a similar scheme here. We have discussed pensions here and how to release pension funds. It was mentioned that one could take out the pension and not repay it but that is not a good idea. People depend on their pension. At 50 years of age it might seem like a good idea but one would regret it on reaching 65 years.

Another suggestion was that one could borrow against one's pension through a bank. I disagree with that suggestion because a pension fund should be sacrosanct. It is important to point out that the pension belongs to an individual and cannot be chased by creditors. Letting a bank use it as collateral would destroy the reason for people to take out a pension.

Let us examine the American pension model. Earlier I mentioned an employee I happened to meet in my office where he spoke about a pension scheme. He said that the scheme worked efficiently and that the American company issued cheques from Letterkenny to people in places like Alabama or California. He made the point that if a payment is missed then it became dangerous for the company concerned and the employee. The scheme must be administered well.

I digress so I shall return to discussing the replacement of county enterprise boards with local enterprise offices. Senator White said that she was not sure where the new offices will be located. Perhaps the Minister of State will outline their location. Will the new office be located in the same building as the former county enterprise board in Letterkenny? Is it planned to have different offices? I would also like to know the physical nature of the scheme. The staff of the county enterprise board in Letterkenny do a great job. They have facilitated many information evenings for small businesses and provide their expertise and a mentoring service.

As I said earlier, the economy has gone in a different direction and away from manufacturing and construction. Senator White mentioned that Michael Tunney, in Letterkenny, said that services and certain industries were not being supported. Obviously they cannot be supported under the legislation. However, we should examine services because areas like Donegal depend on more than one industry. Donegal, like every other rural county, has the tourism sector, the services sector which is increasing, agriculture, financial services and computing services. The new LEOs must examine providing long-term help to the sectors because the physical structure of employment has changed. We can no longer build advanced factories like in the 1960s, 1970s and into the 1980s. Factories waited for a generation hoping for the arrival of a large employer from Europe or America. Now one can create ten or 15 jobs from one desk in a small office. That is where we need to go and we have a good example in Letterkenny. I refer to CoLab located at the Letterkenny Institute of Technology. I know that the Minister has visited the place and wonder will he visit it again soon. Small incubation companies export all

around the world from that location. That global market was not possible ten or five years ago. Recently I visited some of them and saw their innovative work first hand and anyone interested in job creation should visit them. Those young guys and girls operate under radar to create jobs and with the support of CoLab have the potential to create a massive amount of jobs.

Recently I spoke to an individual who is talking to CoLab but has not joined it yet. He hopes to develop a flu test for animals that could be transferred for use in humans and marketed worldwide. Such veterinary tests cost a lot. The Donegal company comprises two men and a couple of associates. A large drugs company has already indicated a willingness to invest. High value jobs are the future for this country so we must move away from what was the norm in the 1970s, 1980s and 1990s. Obviously we lost our way during the Celtic tiger years when it came to sustainable jobs and thought that the world would keep turning with an unending property market. With the recession we have had to make a massive adjustment. I work in the small business sector and anyone operating in the small business sector knows the difficulties that the sector has encountered in order to restructure. It has not been easy, particularly when change happened overnight. Many companies have gone through that experience and many businesses will experience difficulties until the future becomes more certain.

1 o'clock

I welcome the change provided it is not just cosmetic or for the sake of some ticking off some aspect of the programme for Government. We must see real change in areas which are not getting jobs, and I include all parts of the country. As I said earlier, Dublin seems to be getting its fair share and there are reasons for that. There is no reason companies cannot locate in rural areas because we have broadband, services, skills, institutes of technology and universities in those areas. Hopefully, in four or five years' time, we will see the results of this and that the programme for Government can produce the jobs which will sustain areas and keep our graduates locally if they wish to remain.

Senator Labhrás Ó Murchú: I welcome the Minister of State, Deputy John Perry. In the current economic climate, this is possibly one of the most important debates we will have. We are all well aware that the great challenge which faces us currently is how to create and sustain businesses and create employment. We are particularly lucky in the Seanad to have Senators like Senators Mary White, Mary Ann O'Brien and Feargal Quinn because they have demonstrated their entrepreneurial skills, have been at the coalface and know the challenges and the opportunities. For that reason, one is inclined to listen very closely to them.

Senator Cáit Keane gave us a very interesting Latin lesson on Leo the lion. I suppose it prompts the observation that one hopes Leo will have more teeth than roar, which will be very important. I will come to that in the context of seed capital in a moment. I was glad the Minister of State acknowledged the work of the county and city enterprise boards. It is quite evident that they have been very successful in creating jobs. If one changes from one system to another, one needs to be fairly sure one has a workable model. One of the strengths of the enterprise boards was that they drew on the expertise in the area. Like the three Senators I mentioned, that will be a vital ingredient.

I would not, in any way, denigrate the local authorities because we all know how successful they are in their own realm but we must ensure the new process is not just a second thought within the local authority and that it is able to work closely with the expertise which was, in the past, available on a voluntary basis.

There is nothing sadder than for enterprising young people, putting whatever limited money they have into a little business, whether a restaurant, a craftwork, a shop or whatever, and simply because very often we have too much bureaucracy and because they do not have that initial capital to get them to a point where they become competitive and capable of marketing to see it close in a matter of 12 months. I see it in my own town of Cashel and elsewhere. One can only imagine what it must be like if one was enthusiastic, excited and prepared to use initiative and innovation only to find it all falls. That creates extra negativity in the community. Expertise is a vital part of it. People must be able to identify what is a good project, where the market is and be very clear on branding. All of those issues do not go away.

I am reminded of the two young Collison brothers. I do not know if Members have been following their story but they won the Young Scientist of the Year. It seems they could not find an Irish company to engage with them so an American company did so for \$3 million or \$4 million and also took the two young brothers to America. I read in the newspaper during the week that they were offered \$800 million for their project which they refused because they said they had €40 million in the bank and that they did not need the \$800 million straightaway. These two young people are not even 30 years of age. I am not blaming anybody in Ireland but one must ask how the American company saw the potential and what agency should have seen it in Ireland, in particular in a national context which that would have been. In a local context, there is even a greater danger that we will miss the potential. That is why we must be very sure the effort we are making now is almost success-proof. The disillusionment which follows the closure of the little shop I mentioned can be absolutely heartbreaking.

What happens if something like this, which replaces the enterprise boards, fails or is not seen to deliver? I am not blaming Government because we have heard it said so often that it is not the job of government to create jobs but to create the environment in which to create jobs. At the same time, this is one of the steps towards helping businesses. I did not know the statistic until the Minister of State gave it today but 98.5% of all firms are small enterprises. That is a huge figure. They are also responsible for 650,000 jobs. What we are saying here is that the small firms are the lifeblood in that area of the economy and that is why we must tread very warily and cautiously but that does not mean we should not be enterprising and innovative. I would be the last person to suggest that.

Did the structure draw on a model anywhere else? In other words, are we starting from a greenfield-type situation or did another model exist? If a model existed and if we saw how it operated and succeeded, that would be very important.

In the future, small businesses, even businesses employing four or five people, will be exceptionally important. We should refocus on indigenous crafts and those types of businesses. Is it not particularly interesting when one sees a firm coming up with new food products drawing on traditional methods and indicating why it is wholesome, etc.? That is something we should bear in mind as well as the person who works in wrought iron. All of those things create jobs. Small towns will not get big industries in the future. Indeed, if they get big industries and if they close or go to eastern Europe, a terrible vacuum is left.

Will the Minister of State keep an eye on the bureaucracy? The last thing a young person wants is excessive and unnecessary bureaucracy. That does not mean one automatically says someone has a good project but people must be encouraged. Our job is to provide them with information, give them case studies and be available to them. I think Senator Cáit Keane made the point about knowing where to go. One needs to know where the office is and to whom to

go. I am a little concerned that because the local authority will have a central role in the LEO concept and because it is caught up in rates, motor taxation, recreation and so on, it will not be evident that one is coming into an opportune place. That is my biggest fear. I can see that there is much detail in the legislation but I hope this will not be hidden in a back office in a county building.

We have said enough about the banks in the past but there is something radically wrong in a state which has put billions into the banks that it is still not clear whether seed capital is available to small businesses. We are told by the banks that is the case but we must examine that more closely, and this model in particular will require that understanding and co-operation from the banks. We are either out of recession and are on the way up or we are not. I like to believe we are out of recession and on the way up but if we are on the way up, the partnership of the banks is required. The old days of saying “No”, ignoring people and putting unnecessary pressure on them are gone. I am not suggesting the banks should automatically give money to people, nor am I suggesting they should not run their business properly but there are steps before that where the banks could have assisted. In the old days, so to speak, if one went into a bank one sat down and had a chat with the person involved. One had to tell them what one had for breakfast and so on but the point is that they were seen to be supportive. This model will require that, and Senator Feargal Quinn put his finger on it when he said that cash has to be an ingredient of this model from wherever it comes.

I wish the Minister well with the model and I am delighted with this debate in the Seanad. It has proved once again that we have people in the Seanad who can discuss these matters as practitioners, and what we must be at the moment is practical.

Senator Mary Ann O’Brien: I welcome the Minister to the House to discuss this important and welcome County Enterprise Boards (Dissolution) Bill. I second what Senator Ó Murchú said. We heard earlier from Senator Feargal Quinn. When I started my business he was one of my mentors in that I was living in the Duke of Leinster’s country house in the stable flat of Carton, in Maynooth, from where I was working on my chocolates out of the kitchen. I went up and knocked on the door of Superquinn in Lucan where I met Feargal Quinn, who was not a Senator at that time. That is the reason I started down the path I took and believed in myself. I wonder how Seanad Éireann attracted such a brilliant man who does not need to drive in here from Howth every day. He has a very important Bill before the House later today yet he took the time this morning to come into the House to give us many important ideas and insights. I pay tribute to him in that regard.

On the dissolution Bill, I congratulate Julie Sinnamon, who was recently elevated to head Enterprise Ireland. I have known Julie for years. She is a superb individual. I welcome that the enterprise boards will be known now as LEOs, local enterprise offices, which is easy to remember, and will come under Enterprise Ireland and the local councils. We all know that Enterprise Ireland is brilliant and the way it has its finger on the pulse not only of medium size businesses but also in terms of internal and international investment, in addition to the technological sector, but to micro-manage the small businesses of Ireland is a lot to ask of it. I was glad to hear it repeated that over 95% of the businesses in Ireland are the businesses we are discussing this morning but in terms of the county enterprise boards, now LEOs, the Minister will agree it is vitally important that we get this right. He is our champion here in the Oireachtas but has he had discussions with Julie Sinnamon and who will she get to champion the 31 LEOs? This is a major evolution. It is a time for reform, and I am pleased to hear that the staff of the enterprise boards will be transferred into the new LEOs but in my county of Kildare there has been a great

deal of unhappiness and uncertainty about what would happen. I received some phone calls yesterday and this morning and people are waiting to hear the outcome of the discussions today and what it will mean for their future. I would like to see those good people in all the enterprise boards upskilled, trained and championed by the new person in Enterprise Ireland.

People think my business is in good shape but mine is a medium size business. I hope this year to have a turnover of €20 million, and I have over 100 employees, but the challenge is to keep up with the times and the evolution in technology, particularly e-commerce where there are huge opportunities for a business like mine, but there are even bigger opportunities for small entrepreneurs throughout Ireland who have ideas. I had a meeting last night with a group of English entrepreneurs who already had a successful e-commerce cycle and have started a new one. I was terribly jealous but I was also shocked by how little I knew. I have two persons working in my company who specialise in the web, Facebook and social networking, and I thought we were ahead of the times. My point is that we must make an effort to not only form the LEOs within the councils but to make them edgy and upskill the people who will run them to a level where we might have to avail of international expertise and recognise that every six months we will have to push ourselves to keep up with international best practice.

In terms of Kildare and Naas, we have a wonderful new shopping centre out of town where one of the biggest English multiples has taken root. We have an Aldi located next door and all the local shops have joined them in a lovely centre. I am not a great shopper but I called in there last Sunday and the car park was depressingly packed. Naas town is dying. The council had to drop car parking charges last week. This area probably comes under the remit of the Minister, Deputy Hogan, but we are talking about service industries and retail and we should try to keep the town centres alive for some of the fledgling businesses. In that respect I ask the Minister to examine the issue of car parking.

The Minister of State is in the Department of Jobs, Enterprise and Innovation but we need to join the dots, so to speak, at the Cabinet table. I refer to education, starting with transition year. My daughter who is in first year loves business. She wants to be a business person but she does not have a clue about the challenges. By the time children get to transition year we should start showing them what the LEOs are about and how easy it is, that is once we hear about the removing of red tape and bureaucracy about which other Senators pleaded earlier with the Minister. Can we link the Minister for Education and Skills, Deputy Ruairí Quinn, the Minister for Arts, Heritage and the Gaeltacht and the Minister for tourism to the LEOs? Representatives of the Department of heritage were in Buswells Hotel last week. Most Senators called over to meet them. They have dropped the budget from €22 million to €7 million. We continue to talk about saving €20 million if the Seanad is abolished, which is a lie, but what about the €17.6 million we give to the European Space Agency programme? I ask the Minister to speak to the Minister, Deputy Hogan, get back that €22 million and put jobs back into local communities. I am making my point in a roundabout way but construction workers who do not have to upskill can work on restoring important buildings in the community. Tourists are being brought into the country in much greater numbers as a result of The Gathering, and there are more plans for the future. However, with tourism comes a chance for young entrepreneurs to think about getting into craft, artisan food, services, hairdressing, beauty and other franchise ideas. Tourism generates hope in rural communities. The Minister should not be alone in his Department. Other Departments must feed into his and help him.

I second what Senator Quinn said about crowd funding, which is in its infancy in this part of the world. I have been a member of Kildare County Council audit committee for three years.

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I have never been a councillor. I had nothing to do with councils and when I went into the council I did not have a clue about the level of responsibility, the challenges they face on a daily basis and how much they have to manage. I, too, second the concerns expressed about LEOs going into county councils. The situation must be managed - whether by the Minister or Enterprise Ireland - to ensure there is an environment, culture and appetite created in the councils so that the LEOs are given a separate identity. I welcome the newness of and the enthusiasm to evolve the LEOs, but the councils have their own cultures, which is a worry.

On the LEO staff who are moving from the enterprise boards, has the Minister considered putting in a performance management system? For example, were I a new LEO member of staff who came from a county enterprise board my remuneration would change. However, I would want the Minister to enthuse me, to give me some targets and to tell me that if I can find five entrepreneurs in my county in the next two years, I will get X, Y and Z. Matters should cascade down from Enterprise Ireland to the 31 LEOs. Let us have some fun, set targets and pull in the right direction.

With regard to bureaucracy and red tape, I am not a great business person - thank God I became a Senator because I now have someone who is much better than me at being the CEO - but I am a definite, mad, crazed entrepreneur. I love barbed wire fences and big brick walls because I will get through them if there is a sale on or an opportunity on the other side. I have accountants, technical people and scientists - the whole nine yards - working for me so I am fortunate. However, since my journey's beginning I have detested red tape and bureaucracy. There are so many people like me who are madly enthusiastic - they just want to be let out of the traps and go - and have ideas. Most of the other Members have spoken about the fact that we cannot have the same amount of red tape and bureaucracy for a large business and a small business, but that is the position. The Minister has the power and I ask that in his deliberations with Enterprise Ireland, he makes it easy for the people who want to make a change. I ask the Minister to consider a few incentives for new entrepreneurs. For example, perhaps there should be different capital gains taxes for people who have run a business for five years and manage on an exit clause and sell their business.

Job seekers allowances and failure are two subjects that people are scared of. People have told me they are taking a big chance because they know so many businesses fail and they worry about whether they will lose their job seekers allowance or whether they will succeed. When I tell them that they will get there, they respond that they have nothing to fall back on. We need to join the dots and put in place a protection mechanism around people who are willing to take a chance. To try to encourage us, the fear of failure must also be removed. That is a huge barrier to entry for many entrepreneurs. I thank the Minister for listening to me.

Senator Sean D. Barrett: I welcome the Minister. I always enjoy meeting the Minister around the House and I know that his heart is in the right place on this Bill. The Minister mentioned that there will a network of 31 LEOs across the country, so there will be a busy role for the Minister for Transport, Tourism and Sport, Deputy Varadkar and I hope that he has 30 other fellows ready to assist in that task.

I sat on the Culliton review of industrial policy. Our worry at the time was that there were too many agencies and bureaucrats involved, which is a fear that others have expressed in regard to the Bill. After we finished the report I was asked what was in it and I responded by saying that among other things, the report recommended a reduction in the number of agencies. There has been confusion between the agencies and the entrepreneurs. As Senator Quinn men-

tioned, the number of start-ups is down by 21% in 2012 compared to 2011. There is too much managerial jargon and talk. The agencies spend too much time talking about themselves, and they would not know an entrepreneur if they came up and bit them. We found that tendency in the Culliton review. We must get the entrepreneurs first and let the agencies take a back seat. Perhaps they should have smaller public relations departments.

I am sure that the Minister will agree that when we use construction as the instrument of development we are crowding out industry. Industrial employment was static or even in slight decline in the first seven or eight years of the previous decade, which has been pointed out by people such as Chris Horn. The fastest growing economy was shrinking its industrial sector - the sector the country relies on for exports. We must see that the road to economic growth is not through larger public or construction sectors because we have tried that; neither is it through the banking system that we have. I sat on the Committee on Finance, Public Expenditure and Reform when the bankers came in. I have no doubt that they would do the same all over again. They are not interested in start-up enterprises. They were simply bubble housing lenders. The Governor of the Central Bank said that he is powerless to prevent reckless banking. Item 27 on the Order Paper, which is the Financial Stability and Reform Bill 2013, is to try and separate utility banking from casino banking. The matter has gone to Europe, but the Department of Finance does not seem to have the banking expertise - I think that there have been staff changes - to send a document on the topic. We will get nowhere with the present banking system - it just wants another property bubble.

The Ulster Bank chief executive was the most forthcoming witness at the committee meeting. He admitted that an industrial bank in the north of Ireland had been transformed into a property bubble bank in the Republic. The banks' corporate culture will not allow them to get back to being interested in small and medium enterprises and start ups. Without a functioning banking system, I do not know what we can do. In addition to the capital rules in the Bill, as the property bubble threatens again in some places, we must have much stricter rules on loan to value and for the percentage ration to be brought down to below 80%. Some countries have gone down to 70% where they have seen a property bubble developing. We must also have debt to income rules in the property sector enforced. AIB provided an example in which somebody owed it €340,000 but whose income was €34,000. We asked whether the person who gave the loan still works in the bank and whether they could be removed as a danger to society.

We need a new banking system. I do not whether there remains an industrial credit company, which is how governments in the past have tried to get banks to focus on industry as the Minister would want them to, and to get away from the property bubble and the fixation on property. When the Minister for Finance, Deputy Noonan was here he spoke about having negotiations between the Department of Finance and banks from outside the country that would know something about industry and might channel some funds in that direction.

Sheltered sector services have always been a problem. We pay too much for electricity and gas, and legal services in particular. That distortion in the economy means that people want to go into those sectors and not into the sectors that the Government is assiduously promoting. We need to look at tax and welfare rules, the Sunday payments that Senator Quinn mentioned and the need for fewer regulations. It is not just subsidies and hand outs that make a business - there must be market expertise.

As a result of the difficulties with our public finances, we have shrunk consumer expenditure by about a quarter since 2008, which is, as the Minister knows, part of the reason why there

are so many boarded up shops around the country.

The Fine Gael press office issued criticisms - I exclude the Minister from this matter - of Senators Crown and Quinn. Senator Quinn will be back this afternoon to debate upward only rent reviews and making a positive contribution, as he has always done. I deplore some of the statements that the Minister for Jobs, Enterprise and Innovation, Deputy Bruton has made on the issue. Senator Quinn is a genuine man who will help the Minister and the rest of us to develop this economy. The conduct of some of the Ministers and the Fine Gael press office is contemptible. We try to make a contribution in this House. I am trying to get a better banking system and a more sensible mortgage system. We have proposed legislation - I believe we are ahead of many Departments in doing so - because we all want an environment in which new enterprises can operate. That is what the Minister wants and we commend him on that approach.

One of our best entrepreneurs - I heard Senator Ó Murchú refer to the Collisons - is Michael O'Leary. When Mr. O'Leary joined Ryanair, it was carrying 1 million passengers per year. This year it will carry 85 million. Ryanair's operation in the British market is twice as big as that of British Airways and only 8% of its business now relates to Ireland. The airline is bigger than counterparts such as Iberia in Spain and Alitalia in Italy. The attitude towards Mr. O'Leary is not that he is a great entrepreneur and let us try to learn from his example. Rather, and with the exception of the 85 million who travel with his airline, the most prevalent attitude towards him is one of begrudgery. We should leave personality out of it. This is a guy from Mullingar who did not invent aircraft, small airports or the Internet but who combined the three to build the most profitable and biggest airline in the world. I celebrate his entrepreneurship and the kind to which Senator Mary Ann O'Brien referred.

Sometimes when we discuss this matter, one would think that jobs are created by committees and stakeholders - I hate that word - but in reality they are created by entrepreneurs. The latter may be awkward characters whom people do not like but they make things happen. I am concerned with regard to the massive emigration of young people out of the country. Some 63% of emigrants are graduates and they are using their entrepreneurial skills in Canada, New Zealand, the United Kingdom and Australia rather than here. This constitutes a huge loss of talent.

The banking system is probably worse now than was the case five years ago. It was bailed out but it has not oriented itself towards the goals the Minister of State and I share. The banks do not have the necessary expertise at their disposal and they certainly are bereft of economic expertise. They are dilly-dallying and annoying the Governor of the Central Bank who is trying to regulate the sector in the interests of ensuring an efficient economy. Without a home market and good banks, small and medium enterprises face an uphill struggle. As is always the case, we in this House will support the Minister of State because he is a constructive and creative individual. However, far more radical reform is required in the banking sector, within the Department of Finance and in the area of banking regulation. In light of all that happened in 2008, it is bizarre that the Government views the abolition of this House as a priority. There is a need to refocus and we will be with the Minister of State all the way in that regard.

Senator Pat O'Neill: I thank the Minister of State, Deputy Perry, for bringing this very important Bill before the House. The county enterprise boards, as we know them, have served the country extremely well. However, everything must change and we must move on. The boards will be replaced by the local enterprise offices, LEOs, and this will be of assistance in creating more jobs in this country.

When it came to power, the major issue for the Government was jobs. As the Minister of State pointed out, it is amazing that 98.5% of all firms are small and that they employ in excess of 650,000 people. We have all seen headlines about big companies such as Google, Facebook, Microsoft, Intel, etc. which employ large numbers of people. The majority of people are employed by small businesses, however. The changes the Minister of State is bringing forward in respect of the enterprise boards is very welcome. Enterprise Ireland could not deal with local businesses in the past because it was more geared towards attracting international companies. I welcome the fact that it is now going to have a say in this regard. Previously, county and city enterprise boards could not deal with companies which employed more than ten people. That was a silly rule, particularly as all companies need to grow. Even while it is growing, a small company may still need the assistance of a local enterprise office or board.

Members opposite have stated that replacing the county and city enterprise boards with the local employment offices will not work. I am of the view that it will work. As previous speakers indicated, businesses rely on those with entrepreneurial ideas in order to thrive because it is from small acorns that mighty oaks grow. Google, Facebook, Microsoft and Apple all came into existence as a result of one to two people coming up with particular ideas. Consider how those companies have developed in the interim. Those who have ideas must be encouraged at every stage and the requisite supports must be put in place, particularly in light of the statistics relating to the number of businesses which fail within the first two years. We must ensure supports continue to be provided because one never knows how big a business might become. It does not matter how big they might become, however; it is the fact they are prepared to pursue their ideas to serve the country and employ people.

The number of people on the live register dropped again by 2,000 this month. This is the seventh or eighth month in a row that there has been such a drop. At present, the Government is creating more than 700 jobs per week. Those jobs are badly needed. Senator Barrett referred to young graduates leaving the country, and we do not want to see that happening. An amazing statistic emerged last week to the effect that while more than 100,000 young people have emigrated, more than 60% of them left full-time jobs to do so. These individuals may have made a conscious decision in this regard and they might have been of the view that they would be better off financially elsewhere. They might also have been of the opinion that they could gain experience in a foreign country while they are young and return to work here in the future.

Will the Minister of State clarify whether the new local enterprise offices will be able to make decisions in respect of grants, supports, etc.? Senator Barrett indicated that he does not like the word “stakeholder”. Will the new local enterprise offices include involvement from local chambers of commerce, unions, county councillors, county managers and so on? What will be the make-up of the boards relating to these new offices?

The digest relating to the Bill indicates that there are 35 separate websites for the various county and city enterprise boards. When the legislation is enacted, there will only be one website. The same supports will be available in every county and people will be able to see that by going onto the website. When establishing a business, someone with an entrepreneurial idea may not know what he or she needs. There are issues relating to planning, water, wastewater, roads, and so on that must be dealt with. County councils have the expertise to assist people in this regard. A person who requires assistance will be able to go to his or her local enterprise office and the director of services or a member of his or her staff will be contacted to discover what supports can be provided.

The Bill before the House is just one piece in a larger jigsaw. In that context, the Minister of State's Department should be involved in discussions with the Department of the Environment, Community and Local Government and the Department of Justice and Equality in respect of an ongoing issue which has often been raised in this House, namely, commercial rates. Perhaps we could use the legislation to provide a helping hand to start-up businesses in the context of getting their operations up and running. As stated earlier, for financial and other reasons, many businesses fail within the first two years. What we are engaged in here is a streamlining exercise. In other words, we are bringing all the expertise together. The staff of the county enterprise boards are not going to be displaced. They will be brought within their local authorities and will work for them. The expertise will, therefore, move with them to those authorities, which is extremely important.

I commend the Minister of State on bringing forward this vital Bill. As stated, in the past the enterprise boards could not deal with companies which employed more than ten people. The legislation is going to help improve the lot of many people. The digest relating to the Bill states that it will encourage more women to become involved in business. Many of the most successful business people in this country are women. I compliment Senator Mary Ann O'Brien and Senator White on the success of the companies they established and on the number of people they employ. Both Senators proceeded into business on the basis of their entrepreneurial ideas. I presume they receive support from Enterprise Ireland and other State agencies in setting up their businesses. The Senators' businesses have progressed in the interim.

It is important that the Bill should be supported by Members on all sides of the House. The digest refers to the commitment in the programme for Government to the effect that:

We will merge local enterprise and job support functions of local, regional and national agencies into a single business and enterprise unit within Local Authorities. This will allow streamlining of local job creation and support functions, increased shared knowledge capability and resources while saving on administration costs.

In the context of the cuts we have been obliged to make under the troika programme, we have been obliged to reduce administration costs. Administration costs are a major factor for local authorities, enterprise boards, Leader companies, etc.

If those costs were streamlined more money would be available to assist start-up companies. It is important to be aware of what is happening in the real world. The enterprise boards should be under the remit of the local authorities, as this area is part of what constitutes local authority reform. Legislation on such reform, including the removal of town councils, was passed in this House. Bringing more power back to the local elected members is part of this legislation. I compliment the Minister of State on bringing this Bill to the House and I will be supporting it.

Senator David Cullinane: I welcome the Minister of State to the House and warmly welcome the publication of this Bill which, as he will accept, is long overdue. I raised at the Joint Committee on Jobs, Enterprise and Innovations on several occasions the need for this legislation to be put in place as soon as possible. Obviously there was uncertainty around what was going to happen and the city and county enterprise boards wanted the issue progressed, as we all did, to make sure that the proper supports were there for entrepreneurs. I commend the Minister of State on bringing forward the Bill.

I do not share the concerns expressed by other Members regarding the role of local govern-

ment. As someone who served on a local authority for seven years, was a member of the county development board of Waterford City Council and a member of the city enterprise board, I believe local government is clearly in tune with the needs of the economy generally and of enterprise development and entrepreneurs. Senator O'Neill pointed out the role local authorities play in supporting entrepreneurs once they establish businesses. We will see the marrying of these new socioeconomic committees with the local enterprise offices, LEOs, and local government playing a more practical role in supporting business, entrepreneurs and economic development generally in their local authority catchment area. I have every confidence in local government both in terms of the local elected representatives and local authority management in this transition period. It is the right step forward, a positive one, and one that I welcome.

I believe the Minister of State would also agree that this must be part of a holistic approach because practical supports for entrepreneurs at an early stage are important but there are other practical steps the Government can take such as addressing the issue of upward-only rents. Senator Quinn has a Bill dealing with that issue which will be debated this week or next week. A more progressive rates system dealing with the cost of doing business and the consideration of energy costs are issues that need to be part of the overall solution, the collective offering to support entrepreneurial activity and new business start-ups. A significant lift would be given in this area if we can get a lift in our domestic economy. If that happens, we would see much more come from the domestic sector and the small and medium enterprise, SME, sector.

Local enterprise development is the engine of our economy. Some 99% of all enterprises are in the small to medium-sized enterprise sector and 78% of all employment in this sector. That shows the importance of the SME sector. While the focus of public representatives can often be on foreign direct investment, which is also important, we need to put much more emphasis on supporting the SME sector, which is the bedrock of our national, regional and local economies.

The existing county enterprise boards have provided vital support and it should be noted that the average cost per job supported was €6,000, which is half the cost of Enterprise Ireland and IDA-supported jobs. That speaks for itself in terms of the record of enterprise boards in the past. The county and city enterprise boards have succeeded in supporting enterprises in areas where other State agencies have failed. I have seen that in my local area where many businesses would not have got support from Enterprise Ireland because perhaps they were too small or because they were able to get grants, be it feasibility grants or employment support grants, from the enterprise boards in the areas in which they wanted to set up and they are now viable businesses creating jobs. We should acknowledge all the good work that has been done by the city and county enterprise boards up to now.

However, local enterprise development could do more as part of a seamless State-wide approach to enterprise development. The use of local authorities as the delivery body makes sense in maintaining a local focus and accountability. The Bill envisages that the new LEOs will be scrutinised. Accountability in that respect is back to the manager and that makes some sense, but there must be democratic accountability also in terms of the local elected representatives.

The types of change envisaged in this Bill are not without their challenges. I hope the Minister of State can provide some clarity on a number of issues, especially the relationship between Enterprise Ireland and the new LEOs. As outlined, the LEOs will be accountable to Enterprise Ireland through a service level agreement. Will the Minister of State outline how the relationship will work between Enterprise Ireland and the new LEOs, how it will play out?

Senator O'Neill spoke about the limitations of the city and county enterprise boards in the past in terms of being only able to support companies which employ up to ten people. There is an opportunity to have a more seamless transition between Enterprise Ireland and the new LEOs. That will provide opportunities because there needs to be support from the initial business idea through the start-up process and growth to exports and through to the employment of in excess of ten people. The new LEOs and their relationship with Enterprise Ireland offers us opportunities to deal with some of the challenges the enterprise boards had in the past. What plan has the Minister of State to make that a reality? It is good to have it as an aspiration but how can we make it a reality? What links will there be between Enterprise Ireland supports and those available at the LEOs?

I referred to the relationship between the local authorities and the LEOs, the issue of accountability and the role local elected representatives have in making sure there is accountability. We are talking about taxpayers' money funding business through grant supports and so on and we need to make sure there is maximum accountability back to the taxpayer. Will each LEO produce an annual report benchmarked against its service level agreement? It would be important for scrutiny, oversight and accountability - which are buzz words that the Government uses - especially in the context of political reform, that we have maximum accountability. It would not be beyond the scope of the LEOs to produce annual reports that would benchmark what they have done against the service level agreements they have with Enterprise Ireland.

Regarding local authorities, a concern has been voiced regarding their capacity, focus on enterprise and reputation as being a cost centre for business. I do not agree with that and would ask the Minister of State to respond to some of the criticisms around the role of local government because that has to be challenged. I know there was a tug of war within Government between the Minister, Deputy Hogan, and the Minister, Deputy Bruton, regarding the place and the role of local government. I am pleased that the view of the Minister, Deputy Hogan, won out on this one. Concerns have been raised with me by some people, but I do not accept the proposition as put forward. It is important that the Minister of State clarifies the role and importance of local government here.

What step does the Minister of State intend to take to build the capacity of local authorities to develop an enterprise culture? Will local authorities be able to provide additional support to LEOs and access EU funding for enterprise development. This currently happens in the North, especially in Belfast, and we should examine best practice where we can. Would the Minister of State and the Government be open to considering the benefit of voluntary enterprise forums made up of representatives of local enterprises, support organisations and trade unions to assist the LEOs in their work and to develop an enterprise culture within local authorities? Such bodies would provide the types of skills and experience that existed on the previous county enterprise boards. When we have people willing to come forward and give their expertise on a voluntary basis, we should accept it.

One of the issues raised with me by a number of trade unions is one concerning the grants given to businesses. It is important that if a company receives a State grant it is in full compliance with labour laws and employment rights. In situations where companies are not in compliance, they should not get Government grants. If they are found to be in serious breach of employment laws, instances of which we have seen in past, the State should be able to claw back the funding that was given to those companies. We have to make sure that companies which avail of taxpayers' money are fully compliant with labour law and employment law in this State, which unfortunately has not always been the case. This is one of the areas in which

my party will table amendments if the Government does not see fit to include such provisions in the Bill.

Senator John Kelly: I welcome the Minister of State to the House. As a former member of a county enterprise board, I applaud the great work the boards have done over the years. There is much to be said for the county enterprise board structure that is in place at present. There is cross-party and cross-community involvement on the boards. I once attended a county enterprise board meeting at which two projects from my own area were being considered. The members of the evaluation committee proposed to fund the first project because they thought it was viable, but they did not propose to fund the second project because they felt it would not be viable. I had a different viewpoint. I do not have any skills in this area, but I can spot a good businessman when I see one. I suggested that the project they were proposing to fund would not work, and that the project which they were not proposing to fund would work. They took my viewpoint on board, which was fair enough, and I was right. The first project did not work. They funded the second project on the strength of my contribution and later it won the enterprise of the year award for that year. I hope none of this will be lost when the new local enterprise offices are put in place.

I will be interested to hear the Minister of State's response to Senator Ó Murchú's question about what the new local enterprise offices are modelled on. Are they based on a model that is used in another country?

We most certainly have to deal with bureaucracy. People are frustrated by the forms they are required to fill out in order to apply for anything. The same thing applies to the Leader programme, etc.

Senator O'Neill spoke about new businesses that are being set up. I have repeatedly said that the hearts of rural towns are dying as a consequence of the bad planning of the past. When people are finished shopping in out-of-town developments like Tesco and Aldi, they turn around and go away again. The Minister of State knows my friend who owns Super Valu in my home town. He did not want Aldi to come to town because it was planning to build outside the town. He said would not object if Aldi was planning to build right beside him because it would be a progressive development. If planners took such a positive attitude, we would not be in the state we are in at the moment.

It is clear that IDA Ireland is not putting an emphasis on bringing work to towns like Roscommon, Ballaghadereen, Boyle and Strokestown. It has no interest in towns the size of the Minister of State's home town of Ballymote. It is quite true to say that when one is in Dublin, Galway, Limerick, Cork and a few other urban centres, there is no recession. Outside of those areas, rural Ireland is dying. Everybody is coming here to Dublin for work. We are creating 3,000 jobs a month, which is very much welcome. I ask the Minister of State to try to do something to ensure those jobs are spread around the country so that people do not have to emigrate, or migrate to the likes of Dublin, for work. Perhaps, as a pilot project, the Western Development Commission could examine the rural town centres that are dying and see whether there is something it can do. I know it is interested in anything that might promote employment in rural Ireland. The Minister of State might ask it to get involved in this area.

The generous employment grants provided by county enterprise boards to incentivise small and medium sized enterprises to take on people are welcome and necessary. The Minister, Deputy Burton, recently acknowledged in the House that not many people know about the

JobsPlus initiative she launched some months ago. Perhaps the Department of Jobs, Enterprise and Innovation could start to promote this scheme, whereby an employer who takes somebody off the live register gets half of that person's social welfare payment for two years. It would offer a huge boost to an employer who might be made aware of it. The new structures need to inform people of these schemes.

I wish to mention another idea that I brought to the Minister of State's attention at one stage. It has not moved as yet. The back to work scheme has not gone away. It is still there. I know many employers who started out on back to work schemes. A friend of mine who started out on a back to work scheme is now employing 50 people. Given that employers need capital, the benefits of cash being paid upfront should be considered in the context of such schemes. If a man is prepared to set up in business as a self-employed person, perhaps 12 months of his social welfare payment could be front-loaded to him to help with the capital costs he might need to meet. I await the Minister of State's response to these ideas.

Senator Brian Ó Domhnaill: Cuirim fáilte roimh an Aire Stáit. I respect the Minister of State, Deputy Perry, because he comes from a small business background and he understands the difficulties such businesses are facing. It is fair to say we are living in extremely difficult times. At a time when small business owners are experiencing significant difficulties, I find it somewhat ironic that we are deciding to shrink the State services available to support enterprise. We should be expanding them, or at least holding what we have. In theory, this Bill is all about shrinking the services that are currently available.

The county enterprise board structure has served this country well since it was established in 1993. It has supported some 33,000 jobs and provided various training, mentoring and other supports. Under the structure that has been in place since 1993, IDA Ireland looks after companies interested in foreign direct investment and Enterprise Ireland supports companies with between ten and 100 employees. The enterprise boards operate throughout the country on a county basis. Shannon Development and Údarás na Gaeltachta have defined roles in specific areas. The county enterprise boards have served the country well. Until now, they have had the autonomy and the scope to be able to make decisions at local level. The links between the enterprise boards and local authorities have never been stronger. That is certainly the case in my own county, and I assume it applies in every other county, because elected councillors have always sat on those boards. I know that since 1993, the chairman of the Donegal county enterprise board has always been the Donegal county manager at local authority level. The connection could not have been stronger.

I would like to make a number of points about this proposal. I feel it is the wrong way to go for a number of reasons. Under the new structure that is being put in place, local enterprise offices will be established and the county enterprise boards will be discontinued. There is no defined plan for how all of this will work. There is no plan for how the changes will be implemented. We are moving from a proven track record-based system to a system that has not been proven at all. While I agree there is a need to re-energise and reinvigorate the county enterprise board system, that does not mean the system should be discontinued or the option of reforming it should not be considered. The county enterprise boards have been self-managed. Decisions have been made on a local basis. We are moving the functions of the county enterprise boards to the Department of Jobs, Enterprise and Innovation and Enterprise Ireland, which have no managerial experience in dealing with county enterprise boards. Enterprise Ireland has traditionally been dealing with projects with ten or more employees. Under this plan, it will try to provide support to small organisations and employment projects as well. I cannot see how it will be

able to streamline itself to work efficiently and effectively, particularly in the early years. The county enterprise board structure was democratic in the sense that the board comprised local authority members and representatives of the trade union movement, employer organisations, other State agencies and local businesses. All of them gave their time on a voluntary basis to ensure the county enterprise boards could fulfil their roles in the best way possible.

Debate adjourned.

Sitting suspended at 2 p.m. and resumed at 3 p.m.

3 o'clock

Industrial Development (Science Foundation Ireland)(Amendment) Bill 2012: [Seanad Bill amended by the Dáil] Report and Final Stages

An Cathaoirleach: This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 118, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question “That the Bill be received for final consideration”, the Minister of State may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For Senators’ convenience, I have arranged for the printing and circulation of the amendments. The Minister of State may now deal with the subject matter of the amendments in group 1. I have circulated details of the proposed grouping to the House. Senators may speak only once on the grouping. I remind them that the only matters which may be discussed are the amendments made by the Dáil.

Question proposed: “That the Bill be received for final consideration.”

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): With the Cathaoirleach’s permission, I welcome the young ladies from Loreto secondary school in Clonmel to the Seanad.

I thank the Members for their constructive and positive approach to the consideration of this Bill. To preface my report to the House on the two amendments made to the Bill by Dáil Éireann, which are grouped together for the purposes of this debate, I will note briefly that the principal changes extending the remit of Science Foundation Ireland, SFI, through this legislation relate back to section 7 of the Industrial Development (Science Foundation Ireland) Act 2003. The latter deals with the functions of SFI and sets out the strategic scientific areas in which it is required to operate. While section 4 of the Bill provides for a number of amendments to SFI’s functions, the primary purpose of the legislation is to extend the foundation’s remit to enable it to fund applied research in addition to its existing remit to fund oriented basic research.

Two amendments were accepted in Dáil Éireann in respect of section 4 of the Bill, which amends section 7(1)(g) of the principal Act. An entirely new provision is being introduced to enable SFI to fund research aimed at enhancing the evidence base for the effectiveness of its investments. In this context, section 7(1)(g), as originally framed, provided for SFI to undertake:

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(i) the development of research to assess the impact of research activities funded wholly or partly by the Foundation,

(ii) the assessment of research activities funded wholly or partly by the Foundation.

The amendments accepted in Dáil Éireann introduced the words “and publication” into both sub-clauses, thereby providing for the publication of the findings of any such research the foundation conducts into the impact of its research activities. The two amendments presented no difficulties because publication of such research findings was always intended and so both were accepted. Those Senators who are familiar with the operations of SFI will be aware that it is a very open and progressive organisation that regularly publishes an array of material on its website, *www.sfi.ie*, highlighting developments arising from the activities it supports.

Question put and agreed to.

Question proposed: “That the Bill do now pass.”

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): I thank Senators for the robust debate in which we engaged on the Bill when it was previously before the House. I enjoyed the contributions of Senators and the manner in which they were made. I thank the Seanad for its support for the legislation.

Senator Michael Mullins: I thank the Minister of State for coming before us. Every improvement to the Bill is welcome. I compliment the Minister of State on his performance in the context of his responsibility for science. He is doing a good job. We need to continue to invest heavily in the area of science. I wish the Minister of State continued success for the remainder of his term of office.

Question put and agreed to.

Sitting suspended at 3.10 p.m. and resumed at 5 p.m.

5 o'clock

Upward Only Rent (Clauses and Reviews) Bill 2013: Second Stage

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

Senator Feargal Quinn: I welcome the Minister of State, Deputy Tom Hayes, and his officials. We are getting to know the Minister of State quite well again. He was, of course, a Member of this House some years ago. I was delighted when he was appointed to his current position.

I have been concerned about the matter with which the Bill deals for some time and I had understood that Government legislation was to be introduced in respect of it. That is why I waited until now to bring forward the Bill, which is worthy of consideration. The problems posed by upward only rent reviews for businesses, particularly small businesses, are well known. The

reality is that many businesses are trapped in certain kinds of leasing arrangements. The rents attaching to their properties are more reflective of the fact that land and property were massively overvalued in 2006 than they are of the position which obtains in 2013. The situation is exacerbated by the fact that consumer spending and economic activity are at an all-time low. With no way out, many businesses feel that they have no option but to close down, leading to job losses for those they employ. This can push people over that very thin line between economic survival and poverty. There is a huge difference between a business which is facing the difficulties presented by normal rent arrangements and one which is obliged to pay excessive rent. The first will survive and thrive, while the second probably will not. If we can manage to find a solution to this problem, it will make a world of difference in terms of job creation.

Upward only rent review clauses in pre-2010 leases are artificially propping up the rents achievable by landlords in respect of commercial premises. According to a report authored by Colm McCarthy, new lettings for commercial properties in Dublin have been commanding rents of €30 to €35 per square foot. At the height of the boom, these properties would have commanded rents of €60 or more per square foot. The reality is that if we had killed off these upward only rent review clauses, commercial property rents would have fallen as quickly as they did in the residential sector. Upward only rent clauses have ensured that the rents payable for the buildings to which I refer bear absolutely no relation to the current value of those properties.

The Bill is the fifth item of legislation aimed at tackling this issue. It will address the most significant factor which has led to the collapse of many small businesses and the loss of thousands jobs. The continued failure of the Government to tackle this problem head on will result in further closures and job losses. Those businesses which struggle to survive while paying exorbitant rent have little prospect of being able to expand and flourish. If we are serious about getting the economy back on its feet, we must consider how we might create new jobs and foster the establishment of new businesses. The House engaged in a very interesting discussion earlier today about small and medium enterprises, SMEs, etc. It is crucial that we consider how to safeguard existing jobs and businesses. We must examine ways in which those such businesses can be encouraged to grow and expand.

The Bill before the House is entirely compatible with the Constitution. I will now address its constitutionality under various headings. The first of this relates to the fact that the State's duty to protect property rights is not absolute. The wording of Article 40.3.2o of the Constitution makes this clear. In *Moynihan v. Greensmyth* the Supreme Court noted:

... that the guarantee of protection given by Article 40.3.2o of the Constitution is qualified by the words 'as best it may'. This implies circumstances in which the State may have to balance its protection of the right as against other obligations arising from regard for the common good.

According to Gerard Hogan, SC, the State's leading constitutional lawyer and now a judge of the High Court, "it follows that the State is entitled to balance the protection of property rights against other considerations".

The legislation will apply generally to all commercial leases and will ensure that rents reflect the impact of deflation in the economy. In effect, therefore, the Oireachtas would be removing an impediment to the market finding its true levels of rent. It is true that this Bill would be depriving individuals and companies of an important contractual right without compensation,

but this is very often a consequence of regular and ordinary legislative activity. This point has been made by Mr. Justice Costello in *Cafolla v. the Attorney General* in 1986.

The approach taken in this legislation is anything but arbitrary or discriminatory. The reason this Bill targets upward only clauses in the commercial sector is because of the damage which has been done to that sector by the existence of such clauses. This Bill does not seek to impose any burden on landlords as a class, it merely seeks to allow market rents to prevail.

I wish to deal with the interference in private contracts as that is always a concern. Legislation often impacts on contracts which have been executed between private parties, the Competition Act 1991 is just one example. Interference in a private contract is done in the interests of the wider common good. One has to look no further than the Financial Emergency Provisions in the Public Interest Act 2009, which allowed the State to unilaterally reduce the amount which it would pay to service providers, in spite of the fact that the rates payable were set down in pre-existing contracts. What is being proposed in this Bill is no different from that.

The question of the absence of compensation comes into play. Where legislation interferes with or removes an existing right, it does not automatically follow that the persons affected must be compensated. In the *Private Motorist Provident Society v. Attorney General* in 1984, the Supreme Court upheld the constitutionality of legislation which, without compensation, prohibited an industrial and provident society from operating a banking business because it was desirable in the public interest. This is a very important part. The retrospective nature of this Bill forms part of that carefully balanced exercise. The full retrospective interference with a person's right may in certain circumstances be justified. This point is supported by the comments of Mr. Justice Henchy in *Hamilton v. Hamilton* in 1982.

According to economist Colm McCarthy, the level of deflation of wages and prices has never arisen before, certainly we have not seen it happen in our lifetime, and was not envisioned when legacy leases were entered into. The State is entitled to have regard to present economic conditions which address the extent of its duty to protect property rights. This point was made by Mr. Justice J. McMahon in *JJ Haire & Co. Ltd. v. Minister for Health and Children* in 2009 where he said that "economic realities must inform the interpretation of the constitutional phrases in assessing what the State can do ...".

I wish to deal with the issue of proportionality. The critical question is not so much whether a contractual right will be interfered with without compensation, but rather whether the end result is proportionate and objectively justifiable. This Bill satisfies the test of proportionality in that it does not constitute a disproportionate interference with property rights. It is minimal in terms of how it seeks to achieve its objectives and those objectives are wholly driven by the exigencies of the common good. It is undeniable that the exigencies of the common good lie in favour of a legislative measure such as this which carefully balances the rights of small business as against the rights of banks and institutional investors so as to ease the burden on small businesses. This is a balancing exercise with the very survival of small businesses at its heart. The banks and institutional investors on the other side of the equation are not faced with the prospect of closure or collapse if this Bill is enacted. For many small businesses, the enactment of this Bill will mean the difference between survival and closure; it will mean the difference between staying alive and thriving in the future. For those employed in the small business sector this Bill could mean the difference between working this week or joining the unemployment line next week. I found this quite an interesting challenge to have and it is worthy of consideration to a very large extent. The problems posed by upward only rent are very real for

small businesses. Because of the long-term nature of leases entered into during the boom, this problem is not going to go away anytime soon. I urge the Minister of State in the strongest possible terms to support this Bill.

I found it very interesting to go into the details of this legislation and the Minister of State will realise that it is not an area in which I had a great deal of experience and, therefore, I have had some help. However, I had the opportunity, probably long before he was born in 1971, of ending up not only in the District Court and High Court but in the Supreme Court and I won a case in the Supreme Court back then. I feel very proud of that achievement because I was only a young fellow at the time. I have had to learn a good deal about legislation but I have learned a great deal more in the past few months in examining this issue. This Bill is one that is worthy of consideration, it is one this House should pass tonight and I urge the Minister of State to give it every consideration.

Senator Sean D. Barrett: I welcome the Minister of State, a former colleague on the Joint Committee on Transport and Communications when he was Chairman before being elevated to a ministerial post recently. It is a great pleasure and honour to second the reading of Second Stage of Senator Quinn's Bill.

A problem arises when there are asset bubbles in an economy. When we get over our temporary difficulty on Friday we have to address that. The economy went wrong between 2000 and 2008 and how do we repair the damage that was done by 2008 and afterwards? A large part of that problem, as the Minister of State will know, was a property bubble. We got a good deal of material from the Royal Institute of Chartered Surveyors in the United Kingdom and we did not know enough about this, but it has now assembled information. If this starts to happen in other countries one would reduce the loan to value ratio. The institute would say it should never be above 80%. That figure should be brought down to 70% if a market starts to heat up. We will know better how to do all of that again.

We had a person from AIB before the finance committee who was dealing with an outstanding debt of €340,000 for somebody whose income was €34,000. That is reckless banking and the Governor of the Central Bank, Professor Honohan, said that when he came before the committee. We need laws in that area and we have a Bill listed on the reform of banking. Unless we prevent that happening again and unravel, as Senator Quinn has tried to do, what happened during the last property bubble, our recovery will be unfortunately delayed.

When one inflates property prices, as house prices were in Dublin by 500% between 1996 and 2006, and by even more on some commercial properties, with absurd prices being made for land as in the case of the veterinary college site, that bubble has to be burst. The people who did it were gamblers, entrepreneurs. They still own the properties but how come we have given them, as Senator Quinn has said, the property rights to prices right at the very top of the market, which was irresponsible and which none of us in this House would ever allow to happen again. We will have banking laws, much stricter control of the banks and stricter regulation by the Central Bank. I would say to those people that they certainly filled up enough property pages and they called themselves wizards but they backed the wrong horses. Inherent in what they did was that what goes up, comes down and my goodness it came down with a bang. Holding those properties at artificially inflated rents so that they appear as hugely valuable assets in people's balance sheets in property companies is not on. I am delighted that houses were sold in Monaghan during the week for €30,000. We need those asset prices to fall, as Senator Quinn has said, in terms of the cost of being in business. Where house prices are lower, it makes the

cost of living lower and it will make Ireland a competitive economy again.

Like Senator Quinn, I do not think there is a property right in the Constitution whereby one is entitled to maintain the property price right at the top of a bubble. The strong economic case is very much to the contrary. Those prices have to fall. That is an integral part of our economic recovery. We will all be working, I hope, from next Monday on designing banking rules to make sure this does not happen again. We as politicians will have to get together to do it because from my experience with the banks and property developers, they would start this all over again and we would be back to having 50-page property supplements in the newspapers. This is a danger in Irish society. Property has held too much sway and entrepreneurs and small businesses have not been listened to.

In regard to moral hazard, people will say some borrowed to move to a slightly bigger house. Real moral hazard applies to people who invested recklessly in the kind of properties to which Senator Quinn referred and to reckless bankers. I would have said in the example from AIB that 70% to 80% of that case, where a man with €34,000 owed €340,000, must be due to reckless bankers. I would not go on a case-by-case basis. This should be rules-based. We must get rid of this property bubble and ensure we never have anything like it again. With sensible economic policies and good people like Senator Quinn, I am sure that can happen.

In regard to the rights to private property, I am not a lawyer but I remember when the courts deregulated the taxi business. People who had a piece of paper called a taxi licence were very annoyed and brought cases. In this regard, I mention Mr. Justice Roderick Murphy, the judicial review by Mr. Justice Paul Carney and the judgments by Mr. Justice Declan Costello and Mr. Justice Hugh Geoghegan. The taxi drivers still have their taxi licences - it is a piece of paper - but they do not have a property right to keep any newcomers out of the business, which is what they were trying to do. They still own the property but they backed the wrong horse and it is now worth one quarter or one tenth of what it was before. They should not come looking to the taxpayers for any assistance because they are broke as well because of the €64 billion they had to pay to finance this kind of nonsense.

I want a capitalist system which takes some of the risks and stops sending it back to new entrepreneurs. In this case, we are probably bailing out large international property companies, insurance funds, big banks and so on at the expense of the small entrepreneur, which was what we were discussing earlier with the Minister's ministerial colleague.

The exaggerated definition of property rights is that one is always entitled to be paid at the top of the market. Even we should have known that what was going on was grossly irresponsible. We might take a look at countries which did not have a property bubble such as Norway, Singapore and Canada. I gather China is heading towards one but there will be really strict rules.

Confusing asset price bubbles with proper economic growth and entrepreneurship was a serious mistake the last time. This is part of the curative measures we will all have to take one way or the other. We must be beware of lax monetary policies and reckless lending by banks.

Property speculators drove prices to levels which the Exchequer or the economy cannot now sustain. The Minister knows well the situation in the public finances and we will cope with that on budget day. The kind of property prices Ireland had were unrealistic and Senator Quinn's Bill is a major step forward. These people never lost any opportunities and they were not great

entrepreneurs or visualisers; they were speculators and they lost. We do not pay out on losing horses in the 3.30 p.m. in Leopardstown. These prices should fall and we should not attempt to put a floor under them. We should have been far more sceptical when some of them came calling to Government Buildings five years ago last weekend.

Senator Martin Conway: Cuirim fáilte roimh an Aire go dtí an Teach. As public representatives, we are embarrassed when we are not in a position to deliver something for people which we believe they deserve. There is very little that embarrasses me as much as having to stand up here without a comprehensive solution to an appalling problem. To be fair to the last Government, it introduced the Land and Conveyancing Law Reform Act 2009 which at least stopped this appalling practice going forward. A commitment was made prior to the last general election that the Government would do something to deal with this retrospectively but unfortunately that was not possible because of the very difficult legal situation which prevailed in Articles 40.3.2° and 43 of the Constitution and the fact they must be viewed together. There were legal issues with dealing with this problem retrospectively.

I commend Senator Quinn on bringing this Bill forward. It is another very worthwhile Bill which he has brought forward in my two and a half years in the House. The Bill brought forward by Senators Quinn and Zappone on Seanad reform is a very interesting one that I commend but we can talk about that another day.

This problem is almost as bad as it was five years ago in the sense that many businesses in the mid-1990s, when they were trying to get some sort of security for the future of their businesses, entered into long-term leases, some of which were for 25 years, 35 years and longer. Landlords were quite happy with this arrangement. Tenants entered into this arrangement to ensure they had some security in terms of building and developing their businesses. We then saw the madness which took place from the late 1990s until four or five years ago. Nothing else is upward only in this country except rent reviews. Property prices tumbled and properties around a person's property, which suffered from upward only rent reviews, became vacant and rental values dropped. Unfortunate people were caught up in this bubble.

The people for whom I feel most sorry are those with small and medium-sized businesses who do not have access to big legal teams, well-resourced accountants and so forth who can identify ways and means of getting people through a crisis and who are in a position to negotiate with banks and to avail of any possible loopholes. I am more concerned about the ordinary 95.5% of businesses which are small and medium sized and are the backbone of business in this country. Big business can avail of the examinership option when they get into trouble where they secure court protection and can enter negotiation with landlords and other creditors and come up with a deal which sees a variation in what they are paying in rent. Unfortunately, that is not available to people with small and medium-sized businesses because they do not have the resources to procure the legal and accounting expertise necessary as it is an expensive process.

I always believe there are solutions to every problem. There is more than one way to skin a cat. If there is a constitutional or legal impediment to following through on Senator Quinn's, then let us look at other options. The examinership option is certainly one at which we can look. The Companies Bill 2012, which will go through Committee Stage later this year, has an option called examinership light that would open up the prospect of examinership to small and medium sized businesses which would be a vehicle to deal with these astronomical upward only rents and where they would secure court protection and would be in a position to alter and, hopefully, force down the rents they are paying along with dealing with other creditors.

We must deal with this because if we do not, jobs will continue to be lost. I have absolutely no doubt jobs have already been lost because this has not been comprehensively dealt with. I understand Governments must take cognisance of legal advice, which is appropriate as they would be negligent if they did not do so, but we must be creative and think outside the box and come up with mechanisms to facilitate the retention of jobs and ways and means to secure small and medium-sized business.

This Government and previous Governments have supported and saved the banks. Big business can save itself most of time. Some very high-profile international chains that have got into difficulty in this country have been able to go through the examinership process and, thankfully, retain jobs and get their rents renegotiated downwards. That facility must be available to small and medium-sized businesses. It needs to be available to the shop in the main street in Cashel that is caught in a 35-year lease on an upward-only rent basis and a shop in Donnybrook that might be run by an entrepreneur who set up in the late 1980s or early 1990s and finds themselves in this awful situation. As an Oireachtas and Government, we need to think outside the box, be creative, come up with solutions and not be afraid of pushing the boat out. If this Bill is not legally sound or impossible to implement, let us come up with other solutions. I firmly believe that where there is a will, there is a way.

I have already identified one possible solution to this problem. The good offices of the Minister could encourage the Government to fast-track the Companies Consolidation and Reform Bill 2012, push it through Committee Stage and look for this examiner light option to include people who find themselves in this type of scenario. We have a responsibility to people who find themselves in this position with regard to the hope they were given prior to the last general election and the early part of the tenure of this Government. We have a responsibility to support them and to ensure the State co-operates with and facilitates them.

I look forward to the Minister of State's response. I understand the constraints he faces. I commend Senator Quinn for putting the Bill before us and for facilitating this very important debate, as he has done many times before. I look forward to, hopefully, seeing a comprehensive response that will end this awful predicament in which many people renting properties and operating small businesses find themselves.

Senator Darragh O'Brien: I am not sure how to follow Senator Conway. I know that his sentiments are valid and well held. He mentioned a number of things such as how we need to think outside the box; how where there is a will, there is a way; and how we need to fast-track this and that. That is correct but there are no solutions there.

I commend Senator Quinn for producing this Bill. I have no doubt the Minister of State will say it is unconstitutional and that a referendum would be required. That is the script he has been given. I would tell him that this Government tends to have a referendum once every couple of months and it could have included a referendum on this issue in conjunction with one of them so it would have had a real effect on businesses.

Successive Governments have failed in this regard. I remind some colleagues about what was said when Fine Gael and Labour were in opposition before the general election. In 2011, the Fine Gael manifesto stated that Fine Gael would pass legislation to give all tenants the right to have commercial rents reviewed in 2011 irrespective of upward-only or other review clauses. The Labour Party manifesto, which is not a document to which I often refer, stated that it would enact Labour Party legislation to abolish upward-only rent reviews for all commercial leases as

a matter of urgent priority. The Tánaiste and Labour Party leader, Deputy Gilmore was quoted as saying that there was a crazy law on the Statute Book which did not allow for downward revision of rents. He was quoted as saying that the Labour Party would change that law so that businesses that got stuck with high rents at the height of the boom will be able to have them renegotiated. These were election promises.

I agree that this needs to be done. The programme for Government, which both parties said was an agreement between Labour and Fine Gael, states that the Government would legislate to end upward-only rent reviews for existing leases. It did not say there was a constitutional problem. I would support it on that. I argued with the previous Minister for Justice, Deputy Dermot Ahern, regarding this issue at the time. As Senator Conway rightly noted, the previous Government brought forward the Land and Conveyancing Law Reform Act 2009 which stipulated that there could be no upward-only rent review for leases entered into after the Bill's enactment in February 2010. What has changed since then? Only five months after Labour and Fine Gael entered Government, the Minister for Justice and Equality in response to a parliamentary question tabled by Deputy Calleary effectively said that the Government was seeking further advice from the Attorney General and that it still hoped to do this. Following budget 2012, the commitment was abandoned because it was deemed legally impossible to implement it. I know some very eminent legal people back Fine Gael and Labour. Both parties put forward very clear pre-election positions. They put it very clearly in their programme for Government.

Senator Quinn has set out very clearly how this measure is constitutionally sound. I agree with him on that. It will give businesses a fighting chance. Let us be honest. Why has this not happened? Most smaller landlords - people who live in the real world - have had to review their rents to keep shops in main streets in Swords, Tipperary or anywhere in the country open. Who are the landlords who are not doing it? They are the institutional investors - the pension funds and banks. It is because they are keeping rental yield on their property funds artificially high. I worked in the pensions industry for 15 years. That is what we know. Go 200 yards down the road here to Grafton Street. Most of the properties are owned by institutional investors. They will ensure they get the rents they want to artificially prop up their pension fund and their own returns.

We have a commercial market, part of which is starting to move again which I very much welcome and which is partly due to some of the measures taken by Government for which I commend it. However, it is now a two-speed commercial market. There is a level playing field for anyone entering into a lease since the enactment of the Fianna Fáil legislation in 2010. Anyone who entered into a lease before that date does not have this level playing field. That is a crazy situation. All of us agree that this situation is untenable and unfair. Senator Conway spoke about sympathy and concern and he is right but to paraphrase another Minister, concern and sympathy do not butter any parsnips. The Minister for Communications, Energy and Natural Resources would be the first one to tell him that. He said deals in Europe do not butter any parsnips for the Irish people. I will tell him what would help, to actually do something for the small and medium-sized business sector in this regard. This House can genuinely support that.

I understand that the Minister of State and the Government have a job to do but allowing this Bill to go through on Second Stage may refocus minds. Things are moving in certain sectors of the economy, which is great. All citizens want to see that happening but if we look at indigent Irish industry, particularly the retail sector, we can see that upward-only rent reviews are albatrosses around their necks. They cannot move on. In respect of cutting their salary costs and costs across the business, the major cost is the their rent. I will not even talk about the re-

valuation under the Valuation Act. There is something we can specifically do about rents.

Who will challenge it? If the Government says this Bill is not constitutional, who do people think will challenge it? I will tell you who is going to challenge it. It will be the institutional investors. Have the Departments of Finance and Justice and Equality received advice from or been lobbied directly by institutional investors? What stick are these investors holding over Government on the basis that if it does this, they will do something else? Everyone knows that is the case. Let Canada Life or Friends First challenge the Bill when it is enacted. Let an institutional investor go to the High Court, the Supreme Court or the new court of appeal, if it is established. There is nothing to stop us. Senator Quinn has clearly outlined his opinion, which my party shares. Our view used to be wrong. At the time, I stated my disagreement with the previous Minister with responsibility for justice that we could not remove and render unenforceable a clause contained in a commercial lease where a review process took place to set the rate at a level that was above the prevailing market rent. The playing pitch has been changed for those who sign leases after 20 February 2010, but what about people who signed before then? Consider how much rent they are paying.

Of whom are we and the Government afraid in passing this legislation? Of whom was the previous Government afraid? I do not want to sound partisan, but we have an opportunity to provide a solution by allowing this Bill to pass. Let it go through all of its Stages and into the Dáil. Let a bank, insurance company, pension fund or hedge fund challenge us. Why are we afraid? I do not understand it.

I hope the Minister of State, whom I welcome to the House, understands this position in light of his own constituency. We all know it. There are vacant properties everywhere. New start-up businesses would take them. Existing tenants are being crippled by upward only rent reviews and prevented from expanding. The Minister of State has a chance this evening. Senator Conway asked us to think outside the box. I agree with him, but the Minister of State should think inside this room. Senator Quinn's Bill can be passed on to the Government. It is part of the solution.

Senator Aileen Hayden: Senator Darragh O'Brien is correct in that it is Labour Party policy to abolish upward only rent reviews. However, this is a complex issue and must be handled correctly. Much and all as I applaud the Bill and its sentiments and regardless of the rhetoric that has been exchanged in the Chamber, aspects of this situation must be considered.

I thank Senator Quinn for presenting this Bill. It is an opportunity to raise this important issue yet again in the public domain. The presentation of legislation such as this represents the finest aspects of the Seanad in tabling legislation on difficult commercial and social issues. In many speeches to the House, Senator Quinn has made persuasive arguments about the damage that has been done to small businesses in particular by upward only rent reviews. All Senators are aware of that damage. One need only walk down the main street of any small or middle-sized town, Dún Laoghaire or this city to see the impact on the commercial sector, including the loss of venerable, well-established businesses and the consequent proliferation of what we used to call pound shops but are now termed €2 shops. No one would disagree that there is a serious issue that must be tackled.

My speech will have two parts. It is important to give balance to the debate. I have practised as a commercial lawyer. Upward only rent review clauses in commercial property leases are the result not just of the Celtic tiger era, but of the radically different development of the

legal systems relating to commercial and residential properties. Prior to the collapse of the economy, long leases that provided certainty were the norm and were held up as promoting stability in the commercial leasehold market. In my experience of sitting on the Commission on the Private Rented Sector in 2000, five year rent reviews were held up as the ideal for which the residential sector should aim. In the 1970s to the 1990s, the argument was that tenants benefited significantly from the certainty provided by five year leases in times of rising rents. This is how upward only rent reviews came into being. It is important we understand this. For a time, tenants who had the benefit of commercial leases gained substantially from periods of rent certainty.

Like all Senators, I accept that we are in a different era and that upward only rent review clauses are damaging to business. According to the Bill's explanatory memorandum, Senator Quinn does not foresee any constitutional issue. I am afraid that I must disagree. The main difficulty with the proposal is that it is an arbitrary and disproportionate blanket provision. While all Senators would like small businesses that are in trouble to benefit, that would not be the impact of this proposal. According to the advice the Government has received, a class of landlords would take the consequences of a provision that is in effect retrospective on contracts that were freely negotiated - admittedly, not all of them were free - between equal parties with equal negotiating contractual positions.

Senator Mark Daly: If only the Government parties had the Senator's advice when drafting their manifestos.

Senator Aideen Hayden: If Senator Daly does not mind, without interruption.

Acting Chairman (Senator Paschal Mooney): Yes.

Senator Aideen Hayden: Many commercial leases are held on those terms and many are not. I am well aware that there was not equality in the negotiation of many commercial leases, particularly those for shopping centres or multiple units owned and managed by large companies. However, proportionality is an issue. Senator Quinn need only look back as far as 1986 to the Madigan case on rent control to see that any retrospective provision that is arbitrary and benefits an entire class without taking into account the circumstances of the members of that class would be struck down by the courts as being unconstitutional.

Senator Darragh O'Brien: What about the 2009 Act?

Senator Aideen Hayden: That is legislation going forward, as the Senator well knows. Regarding legalities, we must also take into account Article 15.5.1° of the Constitution, which reads: "The Oireachtas shall not declare acts to be infringements of the law which were not so at the date of their commission." This is the reality. I am not suggesting for a moment that something cannot or should not be done about upward only reviews, but we must also be careful about unforeseen consequences.

Senator Darragh O'Brien mentioned Eagle Star, Irish Life, pension funds and so forth, but the bottom line is that many commercial leases are owned by pension funds. It is the ordinary person on the street-----

Senator Darragh O'Brien: Stop, that is not true.

Senator Aideen Hayden: -----Mr. Joe Soap, whose pension would be impacted-----

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Senator Darragh O'Brien: People like that represent a small proportion. We are discussing large, managed funds.

Senator Aideen Hayden: -----by any undermining of the values of the properties held by their pension funds. That is a fact.

Senator Darragh O'Brien: It is a first to hear a Labour Senator say that.

Senator Mark Daly: It is a bit late to be thinking about that.

Senator Aideen Hayden: It must be taken into account in any decision the Government makes. We must take care of all of the little people, too, whether they be in business or with pensions.

Senator Mark Daly: All of the little pension funds.

Senator Darragh O'Brien: Fair play to Senator Hayden. That is so good of her.

Senator Aideen Hayden: The difficulty with the proposed Bill is its lack of proportionality.

Senator Darragh O'Brien: My God.

Senator Aideen Hayden: I am not suggesting for a moment that this cannot be overcome.

Senator Mark Daly: Why can it not?

Senator Aideen Hayden: I wish to bring the attention of the House to a recent unreported case in 2012 between Ickendel Limited v. Bewley's Cafe Grafton Street Limited, which opened the door for the challenging of many upward only rent review cases. This must be considered, as must the fact that the courts have not ruled on upward only rent review clauses on the basis of public policy and equitable considerations. I also suggest that cases could be taken on grounds of unconscionable clauses in contracts. Many leases were not freely negotiated between equal parties, but by small businesses dealing with large businesses. There were no issues there about equality. It must be possible to put in place a compensation system that gives us the opportunity we require. This Bill lacks strength in that regard. If one genuinely wants businesses to benefit we must be constitutionally robust. Looking at previous case law, in particular rent control, Madigan and so forth, compensation is the issue. I completely favour the introduction of compensation for businesses where it is quite clear that they have suffered beyond belief concerning the legal system. It should be emphasised, however, that not all businesses have suffered because of this. Many businesses benefited from long periods of rent certainty.

I do not know how much time I have left.

Acting Chairman (Senator Paschal Mooney): One and a half minutes.

Senator Aideen Hayden: I want to raise a number of other issues. The explanatory memorandum refers to section 19 of the Residential Tenancies Act 2004, which addresses the problems of upward only rent review clauses in the context of residential dwellings as not being unconstitutional. Does the Minister of State have anything to say about that?

I would also like to raise the issue of-----

Acting Chairman (Senator Paschal Mooney): I am sorry to interrupt the Senator but I misled her. I have been informed that, in fact, she is over time.

Senator Aileen Hayden: By whom?

Senator Mark Daly: The talking clock.

Acting Chairman (Senator Paschal Mooney): The clerk has informed me that it is a six-minute contribution.

Senator Aileen Hayden: It is ten minutes.

Acting Chairman (Senator Paschal Mooney): No, it is ten minutes for the proposer but it is six minutes for everybody else.

Senator Aileen Hayden: Okay. I was ill advised because when I asked I was told that it was ten minutes.

Acting Chairman (Senator Paschal Mooney): I am as much to blame and I apologise for misleading the Senator.

Senator Aileen Hayden: I will finish up briefly.

Acting Chairman (Senator Paschal Mooney): I am sorry for interrupting the Senator's train of thought, it is just that there are so many offering.

Senator Aileen Hayden: I will finish up very quickly. The fact of the matter is that good businesses are failing. We have seen Extravision, HMV, Four Star Pizza, B&Q and O'Brien's sandwich bars all going into examinership. I have raised this matter before in the House. Examinership is only a solution for businesses that have money and can avail of the courts to deal with such situations. Many of these companies-----

Senator Mark Daly: We are in injury time.

Acting Chairman (Senator Paschal Mooney): I am sorry but the Senator is now well in excess of ten minutes, which is four minutes more than she should have got.

Senator Aileen Hayden: Okay. I would like to support the proposal for examinership light. I think an affordable examinership option would be very beneficial.

Acting Chairman (Senator Paschal Mooney): I apologise to the House for misleading the Senator in that regard. I know it is difficult when people have scripts prepared.

Senator Mark Daly: It is the manifesto they produced. The promises did not work.

Acting Chairman (Senator Paschal Mooney): I call Senator Zappone who has six minutes.

Senator Katherine Zappone: I welcome the Minister of State to the House. I wholeheartedly welcome this Bill which has been introduced by Senator Quinn and is supported by Senators Barrett and Norris. Having listened to Senator Hayden, it is a loss and a pity that the Government did not draw on her expertise to write a Bill that we could be discussing here now. However, that did not happen so we have before us this Bill which I welcome. I wish to echo a few things that both Senator Quinn and Senator Darragh O'Brien have said.

The impact of upward only rent review clauses, that this Bill will render unenforceable, is that businesses struggle to pay their rent. The inevitable consequence of this is that many of them have to close down, and people lose their jobs and are forced on to social welfare.

The effect of the upward only rent problem is all too visible in towns and cities around the country, where the streets are scarred with closed shutters. Why do we make them go through this? Why do we tolerate a situation where Government inaction - could we call it Government policy from this side of the House, perhaps not - is strangling the small business sector.

The latest figures indicate that there are 435,280 people signing on the live register, which is an unemployment rate of 13.4%. The programme for Government made a series of promises to ease the plight of small businesses. Small businesses hold the potential to be significant employers. The passing of this Bill would do more to help the SME sector to grow than any other small business initiative that this Government has implemented.

To add to that, this is a Bill which the Government had committed itself to implementing. Senator Darragh O'Brien has already referred to the election manifestos of both the current Government parties, as well as the programme for Government, which promised to legislate to end upward only rent reviews for existing leases. In making those promises to the people, both Government parties had the benefit of professional legal expertise. They could only have made such promises safe in the knowledge that they were legally and constitutionally sound and could be delivered upon.

In fact, the Government went so far as to commission the drafting of legislation to fulfil its promise. It was to be called the landlord and tenant (business leases review) Bill 2011. In spite of its promises, the Government appears to have washed its hands of the solution which could save existing businesses from closing down and save countless jobs.

Who benefits from the upward only rent situation? Generally speaking, the landlords of these premises are not ordinary people who need exorbitant rents to fund their mortgage payments. Many of these buildings are owned by NAMA, the banks and institutional investors. NAMA is now the biggest commercial landlord in the State. If the SME sector were to be given the space to agree realistic rents, then NAMA's books probably would not balance. I suspect that banks and institutional investors are also against legislation such as this because they depend on exorbitant levels of rent which are paid by small businesses.

The ordinary people and future generations of this country have been forced to bail out the bankers. Now the SME sector is being forced to pay artificially high rents to banks and investors to supplement their losses elsewhere.

Such is the extent of the lobbying conducted by banks and institutional investors on this issue that the Government appears to be bowing to their demands. This is in spite of the fact that legislation such as this Bill could save businesses and help the SME sector to grow and generate more new jobs.

Another critical point is that many Government bodies and agencies occupy offices which are subject to an upward only rent review clause. Taxpayers are also bearing an unnecessary burden in the payment of exorbitant rents.

Fine Gael and the Labour Party made a solemn commitment to the people that they would resolve this issue. Under Standing Order 56, the Attorney General has the right to appear and

speak in the Seanad. I would like to extend an invitation to the Attorney General to come into this House so that we can tease this matter out once and for all. We could also invite in her predecessor, Mr. Paul Gallagher, SC, who advised the Fianna Fáil Government on this matter.

Acting Chairman (Senator Paschal Mooney): I am afraid the Senator's time is up.

Senator Katherine Zappone: I will only take another 30 seconds. Let us be frank about this, a vote to oppose this legislation today is a vote for banks and investors. Banks have been calling the shots in this country for too long. I support small businesses' need to survive and expand. That is why I urge my fellow Senators to support the passing of this legislation today.

Senator Cáit Keane: I welcome the Minister of State to the House and am glad to have an opportunity to speak about this important piece of legislation. Hopefully, we can do more than speak about it and if the Minister of State and his colleagues cannot do anything about it today, perhaps they will give a commitment to act shortly.

The subject of upward only rent reviews has been on the political agenda for many years. It has become a major issue since the onset of the economic recession in 2008 when businesses began to struggle. Huge rents that had previously been manageable became destructive and beyond the capacity of a lot of businesses to pay. Unfortunately, we have had a system in Ireland whereby upward only rent reviews were common features of business leases or rental contracts until 28 February 2010. We are one of only two EU countries with such a system, the other being the United Kingdom.

6 o'clock

Senator Martin Conway complimented the previous Government on introducing legislation the Land and Conveyancing Law Reform Act 2009, which, in section 132, banned upward only rent reviews in new contracts agreed subsequent to 28 February 2010. Why did the previous Government not go the whole hog at the time and ban upward only rent reviews in all rental contracts? Why did it confine it new contracts? I understand the reason given then is the same as the reason being given now, namely, that such a provision could be found to be unconstitutional. The only way to find out if that is the case is to make the ban universal and have it tested in the courts.

While the introduction of section 132 of the 2009 Act was welcome, it only applied to new commercial leases agreed after the enactment of the legislation. I can understand the reason the measure was not applied to contracts agreed previously. Between 2000 and 2007, retail rents increased by 240% whereas the consumer price index increased by only 30%. These figures demonstrates how skewed rents became in the period in question. Some people believe rents should decline over time as businesses failures and job losses would force landlords to reduce rents. Recent statistics support this view as they show that Dublin retail rents suffered the second sharpest fall in Europe in the past 12 months. The capital was only one of five major European cities to record falls in high street rents, while 19 others notched up retail rent increases. Despite a 15% decline, Dublin high street rents, which average €2,389 per sq. m., remain 18th highest out of 37 European countries. Given how badly the Irish economy is performing, we need to examine the reasons rents in Dublin remain so high.

Naturally landlords are entitled to make a profit but they are not entitled to make a killing or kill businesses. It is reasonable, therefore, to do everything in our power to address this issue. Ireland is one of only a few jurisdictions in the world where upward only rent reviews

apply and rents cannot fall irrespective of how the market performs.

I refer to the High Court's decision in the Bewley's case to allow the rent to fall to the open market value, albeit not below the initial rent agreed. The important point of the court's ruling was that the rent would be allowed to decline not to the level in place at the time of the expiry of the contract but to that which applied when the initial lease was signed. The "preceding period" referred to in the contract was adjudged by the court to be the initial five years of the lease rather than the period immediately preceding the most recent review date. This is an important distinction for legal experts dealing with leases. The interpretation of the court in the Bewley's case overturns the long understood meaning of the term "upward only rent review". This matter should be teased out further and if this House is good at anything, it is at teasing out issues. I hope we will have an opportunity to further discuss the interpretation of the court in the Bewley's case. We do not want every business in the country to take a court case. The purpose of legislators is to ensure that legislation is considered from every possible angle. The judgment in the Bewley's case may have set a precedent for commercial leases dispute. As a previous speaker noted, the A-Wear company, which has 32 stores in this country, is also trying to negotiate its rents downwards.

I understand the constitutional difficulties that arise and that one cannot leave the Government open to the possibility of being fined. We must, therefore, be careful as private contracts are entered into freely and the country's reputation as a location for investment would be damaged if we were seen to act unconstitutionally. The Minister of State noted that the State could be liable for compensation. As I stated, it is worth testing whether this is the case. I support Senator Zappone's request that we invite the Attorney General to come before the House to give her view on the issue.

Senator Marc MacSharry: I welcome the Minister of State, Deputy Ring, to the House. With every respect to him, however, it is highly disruptive to have ministerial changeovers, as it were, when Senators are contributing to a debate, as was the case during Senator Zappone's contribution. One Minister should be present in the Chamber for the full debate.

Deputy Michael Ring: The Senator is not often present in the Chamber.

Senator Marc MacSharry: I am not being personal. It should be possible to have one Minister present in the Chamber for the duration of a debate.

I am pleased the Minister of State is present because he will, no doubt, relate very well to the issue under discussion. In the interests of those who prepared the legislation and those who seek to improve or comment on it, they deserve, at a minimum, to have only one Minister present for a debate.

I commend Senator Quinn on introducing the legislation. In 2012, my party introduced the Landlord and Tenant (Business Leases Rent Review) Bill in the other House. Despite certain commitments being given at that stage, no action has been taken in the meantime and it is clear the Government will not accept the legislation. Senator Quinn's Bill is imaginative and deserves a hearing. I appeal to the Government to allow it to pass Second Stage. It is clear from the Senators opposite that the Government side in this House wants this issue addressed. The practice heretofore is that advice received from the Attorney General is not cited or shared in the House by Ministers. This is regrettable. If necessary and in the interests of citizens and small businesses, we should test the constitutionality of the legislation in the courts.

The programme for Government clearly states the Government “will legislate to end upward only rent reviews for existing leases.” The manifestos of the two Government parties gave all sorts of commitments. The Tánaiste, as leader of the Labour Party, told us it was the Labour Party’s way or Frankfurt’s way and described the law on the Statute Book as crazy. Back in the land of the little people, to use the expression of Senator Hayden, there are 50 empty retail units in my home town. In 2004, all of these units were commanding high rents but many families and retailers have since gone out of business. Even large UK multiples, notably in the area of ladies clothing, have closed down because they were unable to pay the rents. In the north west, the boom manifested itself through an increase in activity in the service industry, specifically the retail sector where a large number of people were employed. This sector has been bitten hardest in the recession. On O’Connell Street, the main street of Sligo, a Boots chemist store was paying €250,000 per annum for a lease at one stage and the rent for another small unit on the same street was €100,000. Many of these units are now empty.

I accept the Attorney General and her predecessor have concerns about proposals to ban upward only rent reviews. Senators asked why my party in government did not go the whole hog when it introduced legislation on the issue. I agree that we should have done so at the time. As Senator Darragh O’Brien noted, many of us disagreed with the view of the then Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, that we could not go the whole hog. In Senator Quinn’s Bill we have a vehicle by which we can achieve the objective for which we all yearn.

Senator Zappone pointed out that the National Asset Management Agency is the largest property owner in Ireland and perhaps the world. What is NAMA doing on the issues of empty premises, enforcing rents and so forth? What is it doing in cases where holders of leases are in arrears? Is there any engagement? Is anyone saying that they want to keep these people *in situ*? Has anyone sought to bring down the rents? I suggest not. I know of and have anecdotal evidence relating to local authorities throughout the country - the Department of Agriculture, Food and the Marine comes to mind in particular. It may own many commercial buildings in ports like Killibegs and Sligo and smaller ports throughout the country. Has the Department reduced rents for anyone? The answer is “No”. I know first-hand of companies that have gone into receivership, gone bust or ceased trading because of the fact that they cannot afford those rents. I venture to suggest that the State is being pennywise and pound foolish. It should engage with these people, keep them in business and reduce the rents rather than argue that a given business has a lease and it must pay it or get out. I do not believe we are being particularly smart about that.

I thank Senator Quinn and my Fianna Fáil colleagues in the other House who produced a similar Bill some time ago. I call on the Minister of State not to give us the set piece this time, as has occurred so often in the last Administration and this Administration. The line is that they say they are sorry because it is a good initiative for which we all yearn but it is simply unconstitutional. Government Senators have said it. Well, let us test it in the courts. This is something that Irish society genuinely needs and yearns for. It could benefit employment and small business and that will no doubt contribute in a major way to the national effort.

I thank the Minister of State for listening. I reiterate that it is nothing personal but those who schedule these debates and the Minister’s schedules should ensure that one Minister, the same Minister, is here for the entirety of the debate.

Senator Ivana Bacik: I welcome the Minister of State to the House. I commend Sena-

tor Feargal Quinn on introducing the Bill, which seeks to tackle a real and pressing issue for many people, especially those working in retail and running retail businesses. The issue was raised with many of us in the lifetime of the previous Government as well as since the 2011 election. The issue of upward-only rent reviews was dealt with, albeit in a very limited fashion, by the previous Fianna Fáil-led Government under the Land And Conveyancing Law Reform Act 2009, section 132 of which deals with upward-only rent reviews in commercial leases on a prospective basis. In 2009 the Government only dealt with leases on a prospective basis and therein lies the rub and the difficulty.

Senator Quinn's Bill deals with the pressing issue of upward-only rent review clauses in leases and seeks to change the terms of these retrospectively. As other speakers on this side have said, there is a difficult constitutional question about whether one can do that.

I have often been critical of the elevated protection of property rights in the Constitution and that is the problem. I could point to any number of examples. A colleague of mine, Conor Power, wrote about a previous Labour Party Government's attempt to bring in progressive legislation that fell foul of the Constitution on the grounds of property rights. I am referring to the first Employment Equality Bill, which was brought in by the rainbow coalition or perhaps even the Fianna Fáil Labour Party Government. It fell foul of the Constitution in the Supreme Court. As Conor Power put it in an excellent academic commentary, equality rights, particularly the equality rights of employees with disabilities, were trumped by private property rights in the Constitution. This arose with the first version of the Employment Equality Bill. It was subsequently enacted with a different provision on disability. The first provision that fell foul of the Constitution placed, in the Supreme Court's view, an unduly onerous obligation on employers to make reasonable accommodation for employees with disabilities. The court held that there was no distinction between classes of employer and that a small employer would have the same obligation and that this could encroach on the private property rights of employers. That is my summary of the judgment. Effectively, the court held that private property rights in the Constitution prevailed over the rights to equality in the workplace of persons with disabilities. A different and less strong version of that provision was subsequently included in the Employment Equality Bill that was enacted in 1998.

I have written critically about the Supreme Court's treatment of a previous Labour Party attempt to alter property rights through the Matrimonial Home Bill, struck down by the Supreme Court in 1993. That Bill would have given equal rights in the family home to a non-owning spouse. That was to deal with an issue at the time whereby typically the husband was the sole owner of a family property and could sell it or mortgage it without the consent or knowledge of the wife. There were various issues about that.

Senator Thomas Byrne: The issue was that it went too far and favoured a couple making a different decision themselves.

Senator Ivana Bacik: That is right. As Senator Byrne said, it was not only about property rights. The striking down of the Bill was also related to the position of the family in Article 41 of the Constitution. The judgment was that the Bill went too far in encroaching upon the right of the family to decide for itself on what basis the ownership of the family home would be allocated. These are simply two illustrations of the way in which property rights have been interpreted by the Supreme Court. I do not agree with that but we need to be cognisant of it.

There is conflicting legal advice about what we can and cannot do. It is arguable that we

could seek to tackle the issue of upward-only rent reviews in a retrospective fashion, but to do so would require some form of compensation scheme. That argument has been strongly made. I realise there is no contemplation of a compensation scheme in this Bill. The Seanad could not do so because it would involve a charge on the Exchequer. Perhaps that requires further examination but it would be a serious matter to start bringing in a compensation scheme given the current economic climate.

It is regrettable that we cannot take a more generous approach to the Bill. I strongly believe, as does my party, that this is something that needs to be tackled. We are conscious of the serious issues facing businesses, especially small retail establishments which have these clauses in their lease agreements. The previous Government ran up against exactly the same difficulty that we are faced with.

I suggest that Senator Quinn might consider adjourning the debate on the Bill, as we have done previously in the Seanad, without calling a vote on it in order that we could explore some way in which it might pass constitutional muster. There is a serious issue about the undue or elevated protection of property rights in the Constitution and that is the central problem.

Senator David Cullinane: I welcome the Minister of State to the House. I commend Senator Quinn on tabling the Bill. It gives us the opportunity to discuss this issue. We had some conversation with the Minister of State with responsibility for small business, who was in the House today. He was dealing with the legislation to put in place the local employment offices. The issue of upward-only rents was one of the many issues raised with him that impact on the small and medium enterprise sector in particular.

I welcome the Bill and the principles behind it. Last year, my party drafted a Bill to address what we saw as the ongoing injustice of upward-only rent review clauses. Despite the fact that Bill was published, the Government has still not provided time to debate it. Upward-only rent clauses undermine our businesses and cost jobs. Only a few hours ago, we learned that a chain of shoe shops throughout the State has gone into examinership because of upward-only rents. We saw the same with B&Q not long ago. We could all give other examples, especially from the retail sector, of businesses which have gone into either examinership, receivership or which have gone out of business altogether because of these clauses.

The bottom line is that the inclusion of these causes is anti-competitive. It corrupts the market for the benefit of the least-productive sections of the economy. It lines the pockets of landlords. It paid for the greed of property developers and it inflated the bottom line of failing banks. In many respects, it was one of the worst excesses of the Celtic tiger. Yet, it is still with us today. The political will is simply not here to deal with this issue. We are hiding behind the Constitution and advice from the Attorney General, which was never made public. We do not know what that advice was. The countering legal advice that my party has received is to the effect that this Bill, if accepted, would deal with the issue in a very similar way to the Sinn Féin Bill which has been published and is to be debated in the Dáil.

Customers and taxpayers are paying for this because businesses have to stay afloat and they pass the cost on to their customers because they have no choice. Consequently, the consumers end up paying for it. I would have hoped this Bill would receive the support of all parties because before the last election, all parties quite rightly articulated this as a real concern that is affecting businesses and jobs. I appeal to Senator Quinn to press this issue to a vote later today. Let Members support this legislation and move it on to the next Stage. Thereafter, let the

Government revert with its arguments as to the reason the Bill is unconstitutional or otherwise.

In the past, both Fine Gael and the Labour Party vowed to support traders such as Korky's Shoes on Grafton Street. In the programme for Government, they committed to tackling these clauses and to aid struggling businesses. Soon after coming to power, the property lobby comprising landlords, estate agents, developers and special interest groups began to lobby all political parties. Claims were made that changes to the clauses would bring the world down around our ears. How many times have Members heard this claim from the same people? This view of course ignored the loss of 40,000 jobs in the retail sector or how local businesses are struggling to survive both because of the general state of the domestic economy and because of the cost of doing business of which upward only rents forms part. Yet again, the Government chose to take the side of landlords. It stated the advice of the Attorney General was that to proceed may be unconstitutional and may leave the State open to compensation claims and some Government Senators have made that point in this debate. As usual, Members never get to see this legal advice. It is unusual for a legal opinion to be so definite. Members are being told this advice is definite but as they can never have sight of it, they must always take the word of the Government and the Attorney General regarding it. As Members cannot actually see it, they are unable to decide for themselves and it cannot be tested. This is one flaw in the manner in which we legislate in this State as far too often, the advice of the Attorney General is used to prevent Members from progressing with legislation. Other legal opinion has demonstrated likewise.

I will conclude by noting the choice in this regard is simple. One is either with landlords and developers or one stands with those entrepreneurs and workers who work in the retail sector. These entrepreneurs are struggling to stay open and I know many of them are working for the minimum wage and less to keep the shops open in the high streets of our cities and towns across the State. The daily reality for them is they are being crippled and whatever support Members can give to them should be given to them. This Bill constitutes an earnest and honest attempt by Senator Quinn to address an important and pressing issue for many small to medium-sized businesses in general, including those in the retail sector, and I fully support the Bill. If this is pushed to a vote, my party will vote in favour of the Bill.

Senator Colm Burke: I thank Senator Quinn for introducing this legislation and it is important that Members debate this issue. On the reduction of rents, I note that two years ago, a colleague of mine was in the High Court in respect of a rent review on Grafton Street. My understanding had been that it concerned a lease that had expired and that the tenants were entitled to a new lease. However, on checking with my colleague before coming to the Chamber, I learned it in fact was a lease that did not have an upward only rent review clause. The matter went to the High Court for review and the manner in which that court dealt with it was interesting. The issue concerned current market rent and evidence was given by two different valuers, one on behalf of the tenant and the other on behalf of the landlord. I believe the annual rent had been more than €500,000 under the old lease and the person giving evidence on behalf the landlord stated the new rent should be approximately €375,000. However, when questioned as to when was the last time he had negotiated a rent on Grafton Street, he fumbled the reply. On being asked the question a second time, it turned out that in the 30 years of his practice, he had never negotiated a rent on Grafton Street. The High Court duly disregarded his evidence and reduced the rent by 65%.

Senator Sean D. Barrett: Hear, hear.

Senator Colm Burke: This just goes to show the level of reduction on Grafton Street and

how the market was affected. This was two years ago and I do not suggest a similar reduction would obtain now, as the position obviously has changed again and rents are moving upwards at present.

On the question of introducing legislation and making it retrospective, I have noted a number of times that back in 2004, I was involved in an issue concerning nursing homes. It was a case in which no legislation was in place that provided for the deduction of 80% of people's pensions to pay for nursing home charges. A colleague of mine took that issue to the High Court, which ruled that we had not given the health board sufficient time to deal with the issue raised and suggested that we return in six weeks or two months' time. The then Minister, Mary Harney, rushed through legislation to try to make the charges retrospective. In other words, an attempt was made to state these charges, which had been made over the previous ten or 15 years, were in fact lawful. That Bill went through both Houses of Oireachtas in three days but the then President rightly referred it to the Supreme Court. In February 2005, the Supreme Court held that one cannot make legislation retrospective and duly decided the legislation was unconstitutional.

This then raises the same issue in respect of the Bill before Members, namely, can one make something retrospective? Can one apply a new set of rules to something that was done prior to the passage of the legislation? This is my concern and I agree with the advice that has been given to the Government. While I may be wrong, I believe there is a difficulty in this regard without a constitutional change. In fairness to the previous Government, it considered this issue when it brought forward the Land and Conveyancing Law Reform Act 2009, section 132 of which provided that future leases cannot have upward only rents. This was the right decision and the unfortunate problem is that it should have been done a long time ago.

In respect of NAMA, it is important to bring information concerning the figures for 2012 to the attention of the House. There were 276 eligible applications for a rent review in which people sought reductions in rent. An abatement of rent was granted by NAMA in 212 of these applications, which means NAMA now is collecting €13.5 million less in rent and that the agency has dealt with this issue. The figures I have to hand are from March 2013, when there still were 56 cases under review. However, in only eight cases of the 276 applications was the rent not reduced. In fairness, NAMA is dealing with this issue in a proper way.

Finally, I refer the effects of rents and how people are talking about businesses closing because of rent issues. However, other issues also affect small businesses and a large part of the problem concerns cash flow. It is not simply about rent, as commercial rates also are an issue. They have not fallen in real terms to any great extent, even though the volume of business with which people are dealing inside urban centres has reduced dramatically. Neither the Oireachtas nor local authorities have brought down commercial rates to any great extent and they are a major cost levied on small businesses.

Another issue that has not been dealt with is the manner in which planning permission has been granted. Many units are lying idle around the country and will remain so because there is enough retail space in Ireland to provide for a population of more than 11 million people.

An Cathaoirleach: The Senator is over time.

Senator Colm Burke: It is an issue about proper planning and whether planning was granted in the absence of demand for the retail space provided.

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Senator Thomas Byrne: I sometimes wonder whether I am in the Supreme Court or in a House of Parliament because Members are debating whether the measure is constitutional, which is not their function.

Senator John Gilroy: Of course it is. That is fairly elementary.

An Cathaoirleach: Senator Byrne, without interruption.

Senator John Gilroy: How can one bring in legislation that is not constitutional?

Senator Mark Daly: Is Senator Gilroy from a party that promised legislation that is not constitutional?

An Cathaoirleach: Senator Byrne, without interruption.

Senator Thomas Byrne: It is not the function of Members to judge the merits or demerits of legislation from a constitutional point of view, particularly where there is divided opinion on the issue. It is clear that opinion is divided on this issue. Each Act of the Oireachtas passed has the presumption of constitutionality. If citizens have concerns, there is a protection in place whereby the President can refer a Bill to the Supreme Court to test its constitutionality. If the President does not do so, a citizen can go to the Supreme Court to test the constitutionality of legislation. Consequently, I believe Members must move away from this debate because it is a very easy to hide behind the advice of the Attorney General. Fine Gael and the Labour Party, both while in Opposition and when they formed the Government, came to the conclusion that such legislation was constitutional. They promoted and advocated it and included it in the programme for Government. They would have had the advice of civil servants and, presumably, the help of the Government's legal service in drafting that programme for Government. It is astonishing, therefore, that something has got in the way in the meantime.

This is a critical piece of legislation. Almost everybody in the Legislature agrees it is necessary and that its lack is costing jobs and business. Why then do we not go ahead and pass it? If some people are right, and the Bill is unconstitutional, the Supreme Court will tell us, as it has done on numerous occasions. That did not stop the Government at the time of the passage of the Matrimonial Home Bill, to which Senator Bacik referred, part of which was declared unconstitutional. It had been sent, with extremely good intentions. When the President refers a Bill to the Supreme Court, almost by definition some doubt has been expressed as to its constitutionality even though the legislation has been passed. That has happened on numerous occasions. It does not come by surprise, even when the Dáil and the Seanad pass legislation, that a Bill might be unconstitutional. The President calls the Council of State after a doubt has been expressed, often while the legislation is being passed. Perhaps, therefore, given the ongoing debate in this respect and, in fairness, given the differing legal opinions, this is such a Bill and if the Oireachtas were to pass it the President would indeed refer it to the Supreme Court. We have advocated the same before with other Bills and Presidents have taken up suggestions to refer Bills to the Supreme. That may be the way to get the answer.

It seems that the advice of the Attorney General is always used as a crutch. Let us remember the particular personality of the Attorney General. When I was a solicitor, Máire Whelan was the person one went to for conveyancing law. Presumably, therefore, the Labour Party got expert advice at the time from the Attorney General. The Minister for Justice and Equality, Deputy Alan Shatter, one of the top lawyers in the country, would have been extremely familiar with property law in his role as a family lawyer yet he was able to put forward legislation to

the Oireachtas and, when his party went into Government, was able to say it was part of the programme for Government, it could be done, there were no problems with it.

We should act as legislators. Citizens have protection from unconstitutional legislation through the Supreme Court, which has acted on numerous occasions in declaring legislation to be unconstitutional, without causing scandal or offence to the Parliament. It can do so, and if this legislation is unconstitutional, so be it. However, we have a duty to look at the crisis now facing the country. What is that crisis? It is essentially one of jobs. There is no doubt that high rents are costing jobs. What is our job when we make laws? We look for flaws and wrongs in the law and try to correct them. Essentially, that is our function. It is not our function to debate or adjudicate on the constitutionality of legislation. It is certainly a guide but in this case there are differing opinions.

Senator John Gilroy: An astonishing contribution.

Senator Thomas Byrne: There are differing opinions.

Senator John Gilroy: For someone with a legal background to make that argument is astonishing.

Senator Thomas Byrne: I am merely advocating that we do our job, look at problems in society, fix them and where there is division or diversity of legal opinion that it be checked in the normal manner, as has happened on numerous occasions.

I commend Senator Quinn on putting this issue on the agenda again - I feared it had fallen off since we proposed our own Private Members' Bill. When we were in Government we were told by some of the top lawyers in the country, also working with the Labour Party and Fine Gael, that we were wrong. I believe the Bill should be put to the test. In fairness, I do not doubt that the Government would like to do it but it claims it is being held back because of legal reasons. I wonder, if has been suggested-----

An Cathaoirleach: Senator-----

Senator Thomas Byrne: -----whether other interests such as the banks have borne down their will on the Government and won this policy change. That is the only reasonable or rational explanation.

Senator David Norris: Breathless as I am, I am very glad I am able to take part in this debate. I have just come from a very interesting debate with George Hook on Newstalk about the future of this House and am very glad to say that the response from the people, about whom the Taoiseach is always talking, was pretty positive in regard to keeping the Seanad. However, this was contradicted by the taxi driver who said that people were absolutely and totally uninterested.

I commend my colleague, Senator Feargal Quinn, on the wonderful work he has done, again. He has been an absolute mine of energy. It is extraordinary that somebody who has had such a distinguished business career, who should now be tinkling about with golf balls and so on, can do this amount of work. I believe I was one of the pioneers in introducing legislation in this House because it was not normal. I believe Senator Quinn will probably agree with me. In 2004, I introduced the Civil Partnership Bill, which although it did not make it at that point, put a bomb under the Government and we got things done. Since then, Senator Quinn has produced

an array of Bills, one about defibrillators, the business contracts Bill which will become law and, tonight, this very important business. I remember raising this matter at the time. I could not believe those involved were doing this. It was the most insane thing I had ever heard. Not only that, I spoke and voted against it. As far as I remember, they did it in the context of adding VAT in the South on the very same day VAT was taken off in the North of Ireland. The Government's economic policies at that stage were riddled with this kind of thing. This is utter madness. The Government has the capacity - I do not buy the constitutional argument. I remind the Minister of State of that significant phrase which dominates everything, "the public good". The public good overrides everything. That is the mistake that has been made in financial circles all over Europe. People have not thought of the public good but of preserving the system. Once again we are using the Constitution as an excuse to evade doing what must be done. How can businesses survive in the middle of an economic collapse when their income is reducing and the rent is going up? It is a nonsense, an oxymoron. I think of the number of thriving shops and businesses I have seen driven out of places such as Grafton Street. Perhaps Senator Quinn or some of my other colleagues have said this already. At one stage Grafton Street exceeded Fifth Avenue in New York and the Champs Elysées. It was the highest priced street in the world in what is basically a piddling little European capital. It was an utter nonsense. I have known many people who have been driven out of business.

The actual phrase "upward-only rent reviews" declares there is no choice, no flexibility. It was not this Government that brought about the situation but it will not surprise me if it opposes the proposed legislation because this is the kind of stuff it goes on with. Look again at the referendum - no choice. We are told retain or abolish. My taxi driver told me everybody in the taxi business wants to reform it and he would like to do so but since we have not been given that option, they are voting to get rid of it. I said to him that they should vote to keep it because the moral imperative will then be very strong. The Taoiseach has done us one little favour in this Chamber; he has put it on the agenda and it is my opinion that he now lacks the power to take it off the agenda. It is the same, the political equivalent, as the upward only rent reviews because it does not give flexibility to meet changed circumstances.

I believe the Government is afraid of Seanad Éireann. We are looking at one of the reasons for that in Senator Quinn and in my other colleagues, including Senator Barrett, whose economic advice the Government is happy to take. We are doing the work. There are 33 Bills on the Order Paper, including one from Senator Colm Burke on the Fine Gael side on medical insurance, to protect patients who unwittingly get themselves into the hands of a person who has no medical insurance. If something goes wrong in such a case and there is a medical botch those people are banjaxed. The Government agreed it was a good Bill and said it would support it although it needed a little bit of tweaking. I said it should take it in this House but the answer was "No", the dog in the manger attitude. The Government is starving us of legislation and is trying to show we are not doing our work-----

An Cathaoirleach: Senator, you are over time.

Senator David Norris: -----but indeed we are, and tonight is a classic example of it and I am proud to be present to vote for this Bill.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring): On behalf of the Minister for Justice and Equality, who is unable to be here, I thank the Cathaoirleach for the opportunity to contribute to the debate. I thank Senator Quinn for the publication and tabling of the Bill and I note in passing his exemplary record in terms of

advancing Private Members' Bills on a variety of useful and topical subjects. While welcoming the opportunity to speak on the position of upward only rent review clauses in commercial leases, I should say at the outset that the Government is opposing this Bill.

Senator Sean D. Barrett: Shame.

Deputy Michael Ring: Senators will be aware that the Government announced in December 2011 that it had decided not to proceed with legislation to abolish upward only rent reviews. It will be recalled that the proposals which were brought before Government at that time had the particular aim of providing relief for tenants whose businesses might otherwise be viable were it not for the adverse impact arising from the fact that the rent they were paying was significantly above prevailing market levels.

Senator David Norris: It will not abolish upward only rent reviews but it will abolish the Seanad.

Deputy Michael Ring: However, points of conflict with the Constitution were identified during the development of that legislation and on the advice of the Attorney General it was not possible to proceed with it. In particular, it was clear that in order to strengthen the ability of any retrospective legislation to survive a constitutional challenge, provision would have to be made for a scheme of compensation to landlords. Payment of compensation is a factor which is also relevant under the European Convention on Human Rights. The rationale for such payment arises because in certain circumstances it would render lawful a restriction on property which would otherwise be unlawful. Given the current economic circumstances, the Government was strongly of the view that the payment of compensation to a particular sector of society could simply not be justified. In any event, it should also be noted that the existence of a compensation scheme would not, in itself, have guaranteed that the proposed legislation would be proof against a constitutional challenge. It is appreciated that the decision which the Government made was, and continues to be, very disappointing for those who have campaigned for change in this area. I know it was also a particular disappointment to the Minister for Justice and Equality who devoted a substantial portion of time to attempt to address the issue. However, legislation could not be brought to the Oireachtas which the Attorney General indicated would not withstand a constitutional challenge. More generally, the major constitutional complication with any model for legislative intervention in this area is that it interferes with leasehold relationships already entered into and it is a well established principle of constitutional law that legislative restrictions which affect property rights retrospectively are *prima facie* unjust. Of course, it is also the case that constitutional property rights are not absolute. However, there are a number of tests which must be applied if legislation is to be constitutionally compliant and this is where matters such as proportionality and non-discrimination come into play.

While it is accepted that in introducing this Bill, Senator Feargal Quinn is motivated solely by good intentions and that he has been inspired by his own extensive experience in the retail sector, the Bill does not offer a workable solution which can actually be implemented. Compassion and a desire to help cannot change the reality of the legal constraints within which we must operate.

Senator Sean D. Barrett: It does address the realities.

Senator Mary M. White: A bureaucratic answer.

Deputy Michael Ring: We are all aware of the difficulties which confront the retail sector

and small and medium enterprises at this time, but we have to be realistic in terms of acknowledging what we can and cannot do.

One of the key objectives of the Upward Only Rent (Clauses and Reviews) Bill 2013 is to bring about a change in the amount of rent which has been agreed as a result of a contractual arrangement which was freely entered into by the relevant parties. In this context, rent from commercial premises is undeniably property for the purposes of the relevant provisions of the Constitution. At its core, therefore, the Bill is an attempt to impose a restriction on the right to receive rent and inevitably necessitates a restriction on private property rights. It does not envisage a compensation scheme and takes no account of individual circumstances, be those the circumstances of the parties to the lease, or the circumstances in terms of character and profitability of the properties to which those leases relate.

Modern commercial leases are legal contracts which are freely negotiated by two willing parties, the landlord and the tenant. Those contracts impose considerable obligations on both parties and, in essence, reflect the legal bargain that both parties find acceptable. The Bill takes a very broad-brush approach. We can all agree that some tenants in the retail sector are in difficulties and that those difficulties may be exacerbated by the fact that they are locked into legacy leases where there is a significant rental overhang. However, it is also the case that not all tenants are in financial or trading difficulties and, notwithstanding some of the baggage that may arise out of our history, regard must be had to the fact that some landlords have their own financial difficulties, for example, a landlord may be dependent on receipt of the contractually agreed rental income in order to discharge a mortgage obligation on the leased property. In purporting to treat all tenants equally by giving them the benefit of the Bill's provisions, there is a risk that some will be given a benefit which they do not need and that some landlords may suffer disproportionate disadvantage. Furthermore, the complexity of the financial arrangements which sometimes underpin commercial lease arrangements is completely ignored in the Bill.

I wish to say a few words about the analogy which Senator Quinn attempts to draw in the explanatory memorandum to the Bill between this Bill and the various Financial Emergency Measures in the Public Interest Acts which have been introduced. It is indeed the case that these Acts represented an invasion of property rights. However, what was involved here was a regularisation of public funds as opposed to an intervention in private arrangements involving private individuals. Reference is also made to the Credit Institutions (Stabilisation) Act 2010 and to the Anglo Irish Bank Corporation Act 2009, but those Acts must be viewed in their own specific contexts and do not in themselves suggest a model which can be applied in relation to upward only rent review clauses.

Leaving legal considerations to one side, it is difficult to see how the Bill could work in practical terms. It focuses on rent review clauses and on the rent review process. However, rent review clauses vary in form and content. Typically, they specify who should initiate the review, the frequency of review, a procedure for determining the revised rent and a timetable for the taking of the necessary steps in the procedure. The parties may agree the reviewed rent to be paid. In the absence of agreement, the matter is usually referred to arbitration where the standard clause will mandate the arbitrator to determine the market rent for the premises. Separately, it may be provided that the revised rent cannot operate to allow the rent to fall below the rent originally agreed or that paid before the revision takes place. A rent review clause is unlikely to state that the rent should be at a level greater than the amount of the prevailing market rent although, in practice, that may be the effect of the clause. Thus, at a technical level, the construct upon which the Bill is based is flawed.

However, leaving technical matters to one side, and presupposing that the intention behind the Bill is that market rent should apply in the case of all leases entered into before 28 February 2010, no attempt is made to address the consequences attendant upon the proposed legislative intervention. The impact of section 2 of the Bill seems to mean that whenever it could be demonstrated that the current rent being paid on a property was above the market level, even if that was during the term of the contracted rent period, the collection of rent at levels above the market level would be rendered unenforceable. This is a recipe for uncertainty and chaos in the market.

Section 132 of the Land and Conveyancing Law Reform Act 2009, which applies to leases entered into on or after 28 February 2010, specifies that a lease which provides for the review of the rent payable under that lease shall be construed as providing that the rent payable following such review may be fixed at an amount which is less than, greater than or the same as the amount of rent payable immediately prior to the date on which the rent falls to be reviewed. That provision was framed in very neutral terms and, while prohibiting the use of upward only rent review clauses, it did not dictate the level of rent payable by the parties. This is in contrast with the ethos which informs this Bill and which does not do justice to the realities of the commercial property market. In that context, the comparison which has been advanced with the private residential tenancy sector is not a valid one as the realities which underpin the commercial property market are somewhat different in kind.

There are other practical problems which the Bill would give rise to in that, having rendered the review mechanism unenforceable for a large number of leases, no new mechanism is proposed to settle how market rent is to be determined and when such settlement is to take place. On one reading, it seems to allow those who are of the view that the rent they are paying is above market level to set their own tariff. This is not tenable.

There are also broader economic considerations which need to be borne in mind if the Bill, in its current form, were to be accepted. The investment climate has improved significantly within the past year. There is no doubt but that this is in part a response to the general air of certainty and stability which the Government has fostered. The proposals advanced by this Bill have the potential to reverse the gains which have been made and to create negative ripple effects in the wider economy which will not do anything to promote confidence and recovery in the retail sector. Acceptance of them would give rise to the very real possibility of long-term reputational damage arising out of wholesale and disproportionate intervention in private contractual arrangements. It would also guarantee that the State would be mired in litigation for many years to come, with no certainty of a successful outcome.

We can all accept that this is a difficult time for the retail sector and there are many factors at play here, not least the broader global economy. At the end of the day, a revived economy is the best support that Government can offer to businesses and. Ministers, across a range of Departments, are working tirelessly to create a business-focused environment which is essential to the overall well-being of our commercial sector. Since coming into office, the Government has taken a series of actions to help enterprises to create jobs, and job creation continues to be a priority. Considerable work has been done by the Government to reverse the damage to our international reputation caused by the banking crisis and to improve our economic situation. The recent CSO employment statistics bear out the view that we are now moving in the right direction.

I draw the attention of Senators to the Action Plan for Jobs 2013 which lies within the remit

of the Minister for Jobs, Enterprise and Innovation. In recognising the importance of the retail sector to the economy, the Action Plan for Jobs 2013 contains a number of measures aimed at supporting that sector. These include an initiative to increase the number of small businesses trading on-line and an initiative to streamline business licence application procedures. The retail sector has been chosen to pilot a licensing initiative where an integrated licensing application system, incorporating up to 25 licences in the retail sector, will be developed. Employers in the retail sector can also avail of the JobsPlus initiative which provides financial assistance to employers who recruit people who have been out of work for 12 months or more. While retail growth is intrinsically linked to consumer demand and general economic performance, given the importance of the sector for generating employment in Ireland the Government has also established an interdepartmental group to consider further possible measures to assist the retail sector, which could potentially be included in the Action Plan for Jobs 2014..

Attention is also drawn to the continuing action which is being taken to reduce the costs of doing business for all businesses, and which is intended to have a positive impact on areas such as energy, local authority rates, and the administrative burden involved in companies complying with Government regulations and tax systems. Ultimately, the jobs which are essential to the economy will be created and maintained by successful businesses and the Government is restructuring the various supports for enterprise to help them grow and create jobs. The Government is committed to maintaining low business taxes and a favourable regulatory environment and will ensure that our policies keep pace with the way business is changing. Like many other countries around the world, Ireland has gone through a difficult time as a result of the global recession. However, we have acted responsibly in recognizing these difficulties and in putting in place a series of policies to build on our strengths and regain our position as an important hub for companies doing business in Europe.

It is also necessary to address the position of businesses which are in trouble, and in this regard Senators will be aware that the Companies Bill 2012 amends the current law in order to facilitate access by small private companies to the examinership process which can be a valuable tool in terms of restoring viability to a company. The proposed amendment would allow such companies to apply directly to the Circuit Court to have an examiner appointed, rather than being required to apply to the High Court first, as is currently the case. It is hoped that the immediate impact of this change will be to lower the costs of an application and to provide greater accessibility for smaller private companies.

During the course of this speech I have dealt specifically with aspects of the Private Members' Bill which is before us. I have also outlined, in general terms, some of the measures which the Government is taking to address the broad range of economic problems which confront the commercial sector.

I would now like to focus on one or two matters which are particular to the commercial property market. Senators will be aware that the Property Services (Regulation) Act 2011 provides for the establishment and maintenance of a Commercial Leases Database by the Property Services Regulatory Authority. This database will assist in providing readily accessible, accurate information in order to determine the true level of rent payable in respect of comparable commercial properties. I understand the database will be operational shortly.

It will be recalled that, in tandem with the Government decision not to proceed with legislation abolishing upward only rent reviews, NAMA issued a Guidance Note on Upward Only Commercial Leases which is intended to deal with situations where tenants of NAMA debtors

could show that the rents they were paying were in excess of current market levels and, as a result, the viability of their business was threatened. In such circumstances, tenants were given an opportunity to seek NAMA's approval for rent reductions. The most up to date figures which are available show that NAMA has received 312 applications for rent abatement of which 267 have been approved, ten have been refused and the remaining 35 are under review. Let me reiterate the importance that the Government attaches to a thriving retail sector. It is committed to supporting the sector in all areas where such support is feasible. In historic leases it has repeatedly urged that maximum flexibility should be shown during the course of rent negotiation and has called on all parties to act responsibly and in a way which takes full account of the broader national interest. The aggregate annual value of these abatements is €17 million.

I would reiterate the importance which the Government attaches to a thriving retail sector and I would stress that the Government is committed to supporting that sector in all areas where such support is feasible. In relation to the rent review issue in historic leases, the Government has repeatedly urged that maximum flexibility be shown during the course of rent negotiations and has called upon all parties to act responsibly and in a way which takes full account of the broader national interest.

In conclusion, the Minister has asked that I acknowledge and thank Senator Quinn for the work undertaken on this Bill and for his engagement with him. The Minister acknowledges Senator Quinn's genuine concerns relating to this difficult area. I share the Minister's view that Senator Quinn has introduced many fine Private Members Bills.

An Cathaoirleach: Five senators have indicated and there are only five minutes remaining before I call Senator Quinn.

Senator Paschal Mooney: In light of the fact that the debate did not commence until 5.10 p.m - - - -

Senator oirleach: The record shows it started at 5.07 p.m. Five Senators have indicated, so each will have one minute.

Senator Mark Daly: May we have two minutes?

Senator Paschal Mooney: May I request the House to agree to an extension of time to 7.10 p.m?

An Cathaoirleach: I must call Senator Quinn five minutes before that. Each Senator has 90 seconds.

Senator Paschal Mooney: I did not realise that Senator Quinn had to be called. May I ask for an extension to 7.15 p.m?

An Cathaoirleach: There is a set time of two hours for the debate on the Bill. The discussion will conclude at 7.07 p.m.

Senator Mark Daly: I will reread a sentence from the Minister of State's script. I know this is not his own wording. He states: "[I]t is a well established principle of constitutional law that legislative restrictions which affect property rights retrospectively are *prima facie* unjust". Clearly somebody in Government knows the well established principle of constitutional law, yet the Fine Gael and Labour Parties manifesto state otherwise. The current Labour Party Leader, Deputy Eamon Gilmore states the law on the Statute Book which does not allow for downward

rent revision is crazy and that the Labour Party will change the law so that businesses which got stuck with high rents at the height of the boom will be able to have them renegotiated. How is it that members of the Fine Gael and Labour parties who were running for office were able to come up with such promises, when it is a well established principle of constitutional law that one cannot do what was promised?

Senator Brian Ó Domhnaill: Tonight's response was pathetic. The Government is hiding behind the advice of the Attorney General. The Fine Gael and Labour parties made promises before the last general election that they would deal with this issue in Government, and now they are unwilling to do that. Retail Excellence Ireland, REI has outlined that 30,000 jobs are at risk, that means if those jobs are lost, it will cost the Irish economy €600 million. In addition, REI has outlined that 20,000 additional jobs could be created, a net 50,000 jobs if Senator Quinn's Bill were to be accepted. That is a saving of €1 billion to the Irish economy. That is a no-brainer. Yet, the Government is not willing to accept Senator Quinn's Bill.

The Department of Agriculture, Food and the Marine rents 80 properties of which, 71 have an upward only rent review. That can be changed in the morning. It is State owned property. If those in government believe there is constitutional impairment, but are committed to dealing with it, let us have a referendum on it. We are having a referendum on every other issue at present.

Senator Paschal Mooney: The Supreme Court judge, Mr. Justice Gerard Hogan states in a legal opinion on this issue:

The critical question is rather whether such legislation would be proportionate and objectively justifiable. For the reasons set out in this opinion, there are far reaching policy reasons why the Oireachtas might think that the prohibition of such clauses is necessary in the public interest. Not the least of those reasons is that the Oireachtas might consider that such clauses artificially maintain unrealistically high rental levels in the retail sector, thus hindering the recovery of the retail sector.

7 o'clock

He also stated:

If the Oireachtas can constitutionally take steps drastically to interfere with existing contractual rights of service providers and public servants without compensation ... then the proposed legislation of this kind would equally seem to be constitutionally valid.

In the Bewley's case this year, Mr. Justice Peter Charleton said that the amount of rent Bewley's pays to its landlord must fall in line with current market conditions, a ruling that could have significant repercussions for upward-only rent reviews. The court had heard that the parties had entered into a lease agreement in 1987, and then with the 2007 review, at the height of the property boom, the rent was fixed at €1.46 million, up from €213,000. In 2012, that same figure was claimed despite it having been fixed "at the height of the property price inflation that undermined the Irish economy". Those are not my words, but those of Mr. Justice Charleton.

Senator Mary M. White: I wish to put on record that 250,000 people are employed by the retail sector in Ireland. From my observations and study of the sector, it is the most threatened industry in the country. Online technical developments that are taking place and the use of applications and high tech equipment are slaughtering the retail area, so to speak. People are los-

ing jobs in shops throughout the country. This Government has a pathetic approach and lacks an entrepreneurial attitude to this sector in which people are losing their jobs.

I have nothing personal against the Minister of State but I was appalled by his speech and found to be bureaucratic. As I have said many times before, our Ministers did not do their job and left too much to civil servants. The response of this speech is exactly the same and shows the civil servants are running the show. I do not wish to go too far, but civil servants have permanent and pensionable jobs while those in the retail sector can lose their jobs overnight.

Senator Fidelma Healy Eames: I congratulate Senator Quinn on bringing forward the Bill. It is absurd that upward-only rents cannot be contested in a recession and in the interest of the public good, as many Senators have said. It is worth testing in the interest of the public good. We have 1.8 million people at work and half of them, or 900,000, work in the SME sector. If we want to boost the economy, this is the one way to do it. Therefore, let us bring in the Attorney General, as Senator Zappone has said.

Senator Mary M. White: Hear, hear.

Senator Fidelma Healy Eames: Let us hear from her. We test many things through constitutional referenda and this one matters, because this is about jobs. If every one of our SMEs could hire one more person, we would solve our employment problem. For me it is a no-brainer and I ask the Minister to revisit the matter urgently.

Senator John Gilroy: The House must have regard to first principles. I was astonished to hear Senator Byrne and some of his colleagues say that we need not have regard to the Constitution while making law in the House.

Senator Mary M. White: That is what Senator Bacik said.

Senator John Gilroy: Senator Byrne certainly said it.

Senator Mark Daly: That is not what he said. What Senator Gilroy has said is wrong.

Senator Mary M. White: Senator Bacik said that private property has an elevated role in the Constitution.

An Cathaoirleach: Senator Gilroy, without interruption.

Senator John Gilroy: We can decide what Senator Byrne said. He said that we do not need to have regard to the Constitution when making law.

Senator Mark Daly: He did not say that.

Senator John Gilroy: If that is the case, this House should be abolished on the spot.

Senator Mark Daly: He said we are not the Supreme Court.

Senator John Gilroy: The very first principle of good law here is that it conforms to the Constitution. The Attorney General is an independent officer who gives independent legal advice to the Government. The Attorney General has given advice that this may not be constitutional.

Senator Mark Daly: Let her show the advice.

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Senator John Gilroy: We are asking to bring in legislation that has a question mark over it.

Senator Mark Daly: Let her show the advice.

Senator Paschal Mooney: I just quoted a judge from the Supreme Court.

Senator Mark Daly: Which is probably more relevant than the advice from the Attorney General.

An Cathaoirleach: Senator Gilroy, without interruption.

Senator John Gilroy: I commend Senator Quinn on introducing the legislation and I apologise for my rushed statement. Regardless of whether I am a member of the Government parties-----

Senator David Norris: It is a sham.

Senator John Gilroy: -----if this was what I thought the right thing to do, I would support it. It is not because I am in Government.

Senator Mark Daly: If the Senator was in opposition, he would support the legislation.

Senator John Gilroy: If we were to bring in the law and it was challenged in two years time and found to be unconstitutional, we would have opened up the State to be liable for compensation.

An Cathaoirleach: The Senator is over time.

Senator John Gilroy: That is the exact opposite of what a good law should be, irrespective of the good intentions of the Senator.

An Cathaoirleach: I call Senator Quinn.

Senator Mark Daly: In opposition, you were promising the sun, the moon and the stars.

Senator Feargal Quinn: I did not get a chance to welcome the Minister of State earlier and do so now, but I cannot welcome the words he used. I quote one particular sentence from his script:

The proposals advanced by this Bill have the potential to reverse the gains which have been made and to create negative ripple effects in the wider economy which will not do anything to promote confidence and recovery in the retail sector.

That is totally wrong and nothing could be further from the truth. I disagree with those words used.

I am disappointed but not surprised by the reference to constitutional obstacles to the Bill. I met the Minister for Justice and Equality, Deputy Shatter, last night, and he was very helpful and very aware of it and did his best to explain the situation. The ranks of Fine Gael and the Labour Party are filled with great lawyers. If the constitutional obstacles are so obvious and so grave, why did Fine Gael and the Labour Party pledge to enact legislation to deal with legacy of upward-only rent clauses? Why did the Government go so far as to produce its own Bill on this issue? Legislation on this issue could not even have begun to have been drafted without supporting legal advice.

It is clear from the sequence of events that what transpired was that once details of the legislation were shared with the media - I refer to the Government's legislation - the banks and the institutional investors descended on Government Buildings to inform the Taoiseach that the Bill would mean they would not be able to balance the books. Sadly, we now know that the price society must pay to meet the demands of big business is the closure of businesses each week and the loss of jobs at a time when securing another job is extremely difficult.

I acknowledge that the Bill before the House would interfere in a very significant way with well-established constitutional and contractual rights. Even under the Constitution, those rights are not absolute, and we have heard enough said today in that regard.

There is an embarrassing degree of consensus around the issue, which is unique. This is the fifth Bill to address the issue. We also know that the programme for Government and the coalition parties are eager to resolve the issue. Lawyers differ on this topic, as they are liable to do on most legal issues. If we delayed any initiative on the basis of having to wait on consensus from lawyers, nothing would get done.

I acknowledge the advice on this issue I have received from Dr. Rachel Walsh from the law school at Trinity College Dublin, and from Dr. Brian Hunt, who has been very helpful to me on this. I urge the Minister of State to allow the Bill through today and allow its constitutionality be tested in the Supreme Court, if that is the problem. I really believe the Bill is worthwhile and I urge the House to accept it.

Question put:

The Seanad divided: Tá, 27; Níl, 23.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Bradford, Paul.	Brennan, Terry.
Byrne, Thomas.	Burke, Colm.
Crown, John.	Coghlan, Eamonn.
Cullinane, David.	Coghlan, Paul.
Daly, Mark.	Comiskey, Michael.
Healy Eames, Fidelma.	Conway, Martin.
Heffernan, James.	Cummins, Maurice.
Leyden, Terry.	D'Arcy, Jim.
Mac Conghail, Fiach.	D'Arcy, Michael.
MacSharry, Marc.	Gilroy, John.
Mooney, Paschal.	Hayden, Aideen.
Mullen, Rónán.	Henry, Imelda.
Norris, David.	Higgins, Lorraine.
O'Brien, Darragh.	Keane, Cáit.
O'Brien, Mary Ann.	Moloney, Marie.
O'Donnell, Marie-Louise.	Moran, Mary.
O'Donovan, Denis.	Mulcahy, Tony.
O'Sullivan, Ned.	Mullins, Michael.
Ó Clochartaigh, Trevor.	Naughton, Hildegard.

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Ó Domhnaill, Brian.	Noone, Catherine.
Ó Murchú, Labhrás.	O’Keeffe, Susan.
Quinn, Feargal.	O’Neill, Pat.
van Turnhout, Jillian.	
White, Mary M.	
Wilson, Diarmuid.	
Zappone, Katherine.	

Tellers: Tá, Senators Sean D. Barrett and Feargal Quinn; Níl, Senators Paul Coghlan and Aideen Hayden.

Question declared carried.

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

Senator Feargal Quinn: Next Tuesday.

Committee Stage ordered for Tuesday, 8 October 2013.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: Ar leath uair tar éis a deich, maidin amárach.

Adjournment Matters

Treatment Abroad Scheme

Senator Fidelma Healy Eames: Fáilte tAire, mo chara dílis. I ask the Minister for Health to redirect the €40,000 funding approved under the treatment abroad scheme for a Galway father with colon and liver cancer towards better life-saving treatment in the Memorial Sloan-Kettering Cancer Center, New York, which has the best record for cure and life-saving outcomes in this area.

I will give the Minister of State the background to this request. This story concerns a young father of 40 with three children living in Oranmore. Earlier this year he was diagnosed with colon and liver cancer. He is a very fit man and this was a surprise to everybody. He told me when I met him last week that the tumour growing inside him is so big at this stage that he can feel it. He has been to cancer specialists in Galway and Dublin hospitals, all of whom have worked in Memorial Sloan-Kettering Cancer Center in New York. It is world-renowned and reputed to be the best for cancer treatment in the world. My cousin was treated there and he is alive today.

Further to much research and in consultant with the Irish specialists, their recommendation is that his best chance of survival and securing the best health outcomes, despite undergoing chemotherapy here, is to travel to the Sloan-Kettering hospital in New York. The good news is that following examination he has been deemed an ideal candidate by the hospital. The bad news is the cost of treatment and aftercare, which is approximately \$175,000 or €150,000, which includes at least six months follow-on monitoring and trips to the United States for care and attention. The other critical factor is that if the family wait any longer there will not be enough of the liver unaffected by the tumour to accommodate the best recommended treatment, which is the insertion of a chemotherapy pump inside his body.

Funding difficulties and complications have arisen. On application for financial support under the treatment abroad scheme, the Health Service Executive, HSE, has contacted the family and myself to say it will cover the treatment for this cancer condition but only in France, that is, within the European Union boundaries. The family and doctors are grateful for this acknowledgement but on examination the French treatment is an external chemotherapy pump deemed not ideal for this man's condition and, most importantly, this treatment has not achieved the life and health outcomes achieved by the treatment in Sloan-Kettering.

My request on behalf of this family, who travel tomorrow to the US for surgery on Friday to have the chemotherapy pump inserted, is that the funding granted for treatment in France of €40,000 be redirected to the treatment in New York. I am not asking the Minister for additional money but that the money follow the patient, which as the Minister and I know was our promise to the people before the last election. That money will give this man his best chance at life and recovery. The Minister of State may quote rules and regulations about EU boundaries but it is time we put the patient first, regardless of territorial boundaries.

This young family are under enough pressure already without having to be forced to sell their home to pay for the treatment. I want this father to live to see and enjoy his young children growing up. Having researched the French treatment, it would concern them greatly if they had to rely on it. There is less control when the chemotherapy pump is external to the body. They are familiar with a case where the external chemotherapy pump malfunctioned and, unfortunately, the patient died. The track record of success is far less in France. The Minister's goal, and my goal as a Senator, should be to invest the money for patient treatment and care where the outcomes are best.

I ask the Minister of State who is replying for the Minister, Deputy Reilly, to lift the rigid rules of the treatment abroad scheme and allow the €40,000 approved for treatment in France follow this patient to Memorial Sloan-Kettering Cancer Center in New York. Had this funding not been approved we would have a big problem but we are lucky. Everybody is behind this family. His family and friends have set up a trust called For Pete's Sake. They have also set up a huge fund-raising campaign. Thirty of this man's friends have borrowed €1,000 each to let this family get on its way. Everyone has put their shoulder to the wheel. I ask now that the State would put its shoulder to the wheel, think outside the box and redirect the funding that is approved to New York.

Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley): I am replying on behalf of the Minister for Health who is unavoidably absent. I recognise and acknowledge the heartfelt case made by the Senator on behalf of this patient who has a disease that unfortunately visits most families in this country. I emphasise that the HSE operates a treatment abroad scheme, TAS, for persons entitled to treatment in another EU-

EEA member state or Switzerland under EU Regulation 883/04 and Implementing Regulation 987/09 and in accordance with Department of Health guidelines. Within these governing EU regulations and the Department of Health guidelines, the TAS provides for the cost of approved treatments in another EU-EEA member state or Switzerland through the issue of Form S2. A decision is made on each application in accordance with this legislation and guidelines and on the basis of a review by clinical experts. The cost of the treatment is not a deciding factor when approving an application. The treatment must not be available in the State or in a time normally necessary for obtaining it.

The treatment abroad scheme allows for an Irish-based medical consultant to refer a patient that is normally resident in Ireland for treatment in another EU-EEA member state or Switzerland where the treatment in question meets certain criteria. Following clinical assessment, the referring consultant certifies that the treatment is medically necessary and will meet the patient's needs; that the treatment is a proven and not an experimental or test form of medical treatment; that the treatment is in a recognised hospital or institution and is under the control of a registered medical practitioner; and that the hospital outside the State will accept EU-EEA form S2. The application to refer a patient abroad must normally be assessed by the HSE within 15 to 20 working days and a determination given before that patient goes abroad. An appointment should not be scheduled prior to a decision being reached on an application.

In the case raised by the Senator, the treatment abroad scheme received an application from the person concerned on 4 September for a referral to a clinic in France for oncology treatment not available in Ireland. The application was processed in accordance with the statutory framework, the EU regulation and the Department of Health's 2008 guidance. An approval for the referral to France for the specified treatment was issued, as the Senator has stated, on 5 September to the patient.

The treatment abroad scheme allows for patients to be referred to another EU-EEA country for treatment not available in Ireland and have the cost of the treatment met by the issuing of model form E112 (IE). The person concerned has approval to attend the competent service in France in line with the consultant's application and the referral letter in accordance with the governing statutory framework.

The option of funding treatment in the USA as an alternative to the approval for the services in France will not be considered under the treatment abroad scheme. The person concerned has been informed of this decision. There is no provision under the treatment abroad scheme to fund treatment outside Europe which, as I said, covers the EU-EEA countries and Switzerland. Unfortunately, treatment is at the moment confined to the countries stipulated in the regulations.

Senator Fidelma Healy Eames: I am disappointed by the Minister of State's response. The patient and his family are listening to the debate and I know that they, too, will be extremely disappointed. They are aware of the decision for treatment in France, but that decision is not acceptable. Why, in the interests of patient health and life, would we not want to give the father of a young family the best chance at life? The family has done its homework. The surgeons that he is dealing with here have told him that if they had his type of cancer, they would want to be treated in the Memorial Sloan-Kettering Cancer Center. The patient's best chance of life is not to be treated in France.

I ask the Minister to guide me. Where should I go from here? The family is leaving for New York in the morning - their decision is made. The €40,000 is approved. We made a com-

mitment - my party and the Minister of State's party - that money should follow the patient and the treatment offered should be in the best interests of the patient, but now we are saying we are constrained.

Deputy Dinny McGinley: I acknowledge the case made by the Senator. Unfortunately, as matters stand, TAS is confined to certain countries in certain regions. Referrals are not made outside Europe. I do not know whether the regulations can be amended. Incidentally, I compliment TAS on its rapid response to the initial application to have the treatment provided in France - it did that in just one day. I do not know whether there are any international regulations or protocols that would prevent the transfer of the €40,000 towards treatment at Sloan-Kettering. All I can do is forward the matter to the Department to see what are the possibilities.

I am confined to the current rules. I am personally not in position to change them, even though I know this family and the trauma they are going through. As I have said, the treatment abroad scheme only covers the countries that are stipulated in the regulations.

Senator Fidelma Healy Eames: That is the problem.

Deputy Dinny McGinley: That is the problem.

Senator Fidelma Healy Eames: I would appreciate it if the Minister of State could look at amending the rules as he suggested. We are not talking about more money. If the Minister of State could make a representation on that basis, I can give him the case-----

Deputy Dinny McGinley: I do not know whether the Minister for Health is familiar with the case. I am not sure about that because I am just standing in for him because he had to attend another engagement. I will ensure the Minister gets the details of the case if he does not already have them.

Senator Fidelma Healy Eames: I appreciate that.

Eagraíocht na Scoileanna Gaeltachta

Acting Chairman (Senator Lorraine Higgins): I understand Senator Ó Clochartaigh intends to share time with Senator Ó Domhnaill.

Senator Trevor Ó Clochartaigh: Yes, I have no problem with that.

Acting Chairman (Senator Lorraine Higgins): Is the Minister of State, Deputy McGinley, dealing with this matter?

Deputy Dinny McGinley: I am indeed. I am looking forward to some spirited contributions.

Senator Trevor Ó Clochartaigh: Tá mé thar a bheith buíoch don Aire Stáit as ucht an t-am a thógáil le teacht isteach chugainn. Baineadh siar as muintir na Gaeltachta Dé Luain seo caite nuair a dúirt daoine a bhí ag labhairt ar Raidió na Gaeltachta thar ceann Eagraíocht na Scoileanna Gaeltachta go bhfuil an eagraíocht sin le scor roimh an Nollaig. Is cosúil go ndearna an bord plé ar staid airgeadais na heagraíochta, vis-à-vis an maoiniú a fhaigheann siad ón Roinn Ealaíon, Oidhreacht agus Gaeltachta, ag cruinniú éigeandála a bhí acu Dé Satharn seo caite. Is léir go bhfuil cainteanna ar bun le dhá bhliain anuas idir Gaelscoileanna agus Eagraíocht

na Scoileanna Gaeltachta maidir le cónascadh nó teacht le chéile. Tuigim, agus an ábhar seo pléite agam le tamall anuas le daoine ó Eagraíocht na Scoileanna Gaeltachta, go ndeachaigh na comhráití sin píosa fada agus go raibh dul chun cinn an-mhaith déanta. Is léir go raibh an dá ghrúpa toilteanach teacht le chéile chun réiteach a fháil agus sásta comhoibriú chun an ghaelscolaíocht agus an oideachas trí mheán na Gaeilge sna Gaeltachtaí a chur chun cinn.

Dúradh ar an raidió maidin Dé Luain go bhfuil na heagraíochtaí ag maíomh gur fágadh an ceist i lámha an Roinn Ealaíon, Oidhreacht agus Gaeltachta agus Foras na Gaeilge - na maoinitheoirí atá ag an dá eagraíocht - agus gur fúthu a bhí sé na céimeanna eile a thógáil maidir le cur chun cinn an chónascadh a bhí beartaithe. Dúradh go raibh an Roinn Ealaíon, Oidhreacht agus Gaeltachta ag tarraingt na gcos, go bunúsach, seachas feidhmiú chun an méid a bhí le déanamh a chur chun cinn. Caithfidh mé a rá go gcuireadh sé sin an-inní orm. Nuair a bhí mé mar bhainisteoir ar Cumas Teoranta sula raibh mé i mo Sheanadóir anseo, bhí baint agam le tacaíocht a thabhairt d'Eagraíocht na Scoileanna Gaeltachta agus eagar a dhéanamh ar an eagraíocht i gcomhar leis an Roinn - maoiniú a sholáthar, príomhfheidhmeannach a chur ar fáil agus oifig a lonnú i gceantar Mhúscaí agus mar sin de.

Tá an-obair á dhéanamh sa chomhthéacs seo. Tá an scolaíocht Gaeltachta an-éagsúil ón scolaíocht ar fud na tíre. Tá riachtanaisí faoi leith ag na daltaí, na múinteoirí, na boird bainistíochta, na pobail agus na tuismitheoirí sna scoileanna Gaeltachta. Tá Eagraíocht na Scoileanna Gaeltachta ag déanamh an-jab go deo ag iarraidh na cásanna sin a chur chun cinn. Rinne an Roinn Oideachais agus Scoileanna cinneadh le déanaí athbhreithniú a dhéanamh ar an gcuraclam a bhaineann leis na scoileanna Gaeltachta, rud nach mbeadh tarlaithe murach iarrachtaí Eagraíocht na Scoileanna Gaeltachta. Chomh maith leis sin, bhí an eagraíocht ag oibriú go dlúth leis na scoileanna ó thaobh polasaí láidir teangan a chur chun cinn. Mar is eol don Aire Stáit, tá caomhnú na Gaeilge sna Gaeltachtaí lárnach sa straitéis 20 bliain ó thaobh cur chun cinn na Gaeilge. Tá sé riachtanach go mbeadh tobar maith de chainteoirí líofa ar fáil sna ceantair Gaeltachta le tacú leo siúd gur mian leo an Ghaeilge a úsáid mar theanga labhartha.

Is é sin an fáth gur chuir sé an-iontas orm fógra na deireadh seachtaine seo caite a chloisint. An féidir leis an Aire Stáit ráiteas an-soiléir a dhéanamh anseo anocht go bhfuil an Roinn Ealaíon, Oidhreacht agus Gaeltachta chun tacaíocht a thabhairt d'Eagraíocht na Scoileanna Gaeltachta? Ba cheart don Roinn dul i mbun comhráití leis an eagraíocht láithreach lena chinntiú nach gcuirfeadh an eagraíocht ar scor agus lena dheimhniú ní hamháin go leanfar leis an obair mhaith atá ar bun ag an eagraíocht, ach go ndéanfar forbairt ar an obair sin. Beidh an-cháineadh á dhéanamh againn má imíonn Eagraíocht na Scoileanna Gaeltachta. Buille mór tubaisteach a bheadh ann don oideachas trí mheán na Gaeilge sa Ghaeltacht. Tá súil agam go ndéarfadh an tAire Stáit linn go bhfuil seo i gceist aige suí síos agus an cheist seo a phlé leis na feidhmeannaigh ina Roinn, le muintir Fhoras na Gaeilge, leis na Gaelscoileanna agus le Eagraíocht na Scoileanna Gaeltachta. Ba cheart é sin a dhéanamh leis an gcónascadh a bhí beartaithe agus aontaithe a thabhairt chun cinn ionas go dtiocfaidh bláthú ar an oideachas trí mheán na Gaeilge.

Senator Brian Ó Domhnaill: Tá lúcháir orm deis a bheith agam cúpla pointe a dhéanamh i gcomhar le mo chomhghleacaí, an Seanadóir Ó Clochartaigh, i dtaca leis an ábhar seo, a chuireann isteach ar chúrsaí oideachais, agus ar an saol go ginearálta, sa Ghaeltacht. Tá díomá mór ar bhail de bhord stiúrtha Eagraíocht na Scoileanna Gaeltachta de bhrí go bhfuil éiginnteacht i gceist i dtaca leis an maoiniú a bheidh ar fáil don eagraíocht ó deireadh na bliana seo ar aghaidh. Tuigim ón eagraíocht go bhfuil an Roinn ag moladh nach mbeidh aon mhaoiniú ar fáil don eagraíocht ó mí Eanáir 2014 ar aghaidh. An bhfuil sé sin fíor? An féidir leis an Aire Stáit

gealltanais a thabhairt dom anocht go bhfuil todhchaí an eagraíocht cinnte, slán agus sábháilte?

Mar a dúirt an Seanadóir Ó Clochartaigh, tá obair iontach ar siúl ag Eagraíocht na Scoileanna Gaeltachta ag plé le heagrais náisiúnta agus leis an Roinn. Mar is eol don Aire Stáit, níl sé furasta é sin a dhéanamh nuair atá cúrsaí Gaeltachta agus cúrsaí Gaeloideachais i gceist. Bhaineann an remit náisiúnta atá ag an eagraíocht seo ní hamháin leis an oideachas sa Ghaeltacht ach freisin leis an nGaeloideachais go náisiúnta. Tá sé tábhachtach go mbeidh an eagraíocht seo slán sábháilte. Caithfidh mé a rá go gcuirfeadh sé iontas mór orm dá mairfeadh an éiginnteacht seo níos faide. Is mór an trua é go gcaithfidh muid an ábhar seo a ardú anocht. Tá sé tábhachtach é a ardú chun na freagraí a phlé. Má tá dáiríreacht ag baint leis an straitéis 20 bliain don Ghaeilge, shílfeá go mbeadh ról ag an eagraíocht a bhaineann le cúrsaí oideachais sa Ghaeltacht sa phróiseas seo. Tá súil agam go mbeidh soiléireacht ar fáil anocht, go háirithe os rud é go bhfuil éiginnteacht agus ísle brí ag baint leis an eagraíocht agus le baill an bhoird.

Deputy Dinny McGinley: Gabhaim buíochas leis na Seanadóirí as ucht deis a thabhairt dúinn an ábhar seo a phlé anocht. Bunaíodh Eagraíocht na Scoileanna Gaeltachta sa bhliain 1987 mar scáth-eagras chun cabhair, treoir agus tacaíocht a thabhairt do bhunscoileanna agus iar-bhunscoileanna Gaeltachta agus chun abhcóideacht a dhéanamh thar a gceann maidir le hábhair chomóna a bhaineann leo. Ba é an aidhm a bhí le bunú na heagraíochta ná dul i ngleic leis na deacrachtaí a bhí ag tuismitheoirí agus ag múinteoirí na Gaeltachta leis an gcóras oideachais agus go háirithe le téacsleabhar Ghaeilge oiriúnacha a fháil dá bpáistí. Bhí obair na heagraíochta roinnte idir trí choiste ar dtús: coiste na Mumhan, coiste Uladh - nó Gaeil Uladh - agus coiste an iarthair agus na Mí. Cuireadh in iúl don eagraíocht sa bhliain 2005 nach mbeadh aon deontas nua á cheadú ag an Roinn go dtí go mbeadh athbhreithniú déanta ar an struchtúr seo agus coiste nua curtha le chéile ar a mbeadh ionadaíocht ag tuismitheoirí, múinteoirí agus boird bhainistíochta. Thosaigh Eagraíocht na Scoileanna Gaeltachta ag obair leis an gComhairle um Oideachas Gaeltachta agus Gaelscolaíochta chun tabhairt faoi athstruchtúrú iomlán. Chuir mo Roinn cúnaimh ar fáil dóibh le go mbeadh siad in ann tabhairt faoin athstruchtúrú. Aontaíodh bunreacht nua, roghnaíodh coiste stiúrtha ar a raibh ionadaíocht ó na páirtithe éagsúla agus cláraíodh an eagraíocht mar chomhlacht. Roghnaíodh Baile Bhúirne mar ceanncheathrú don eagraíocht agus fostaíodh foireann ann. Ón mbliain 2007, tá os cionn €780,000 ceadaithe ag mo Roinn chun cur ar a gcumas foireann a fhostú agus oifig a riar.

Bhí sé i gceist ón tús go mbeadh an eagraíocht ag feidhmiú mar bhrateagraíocht thar ceann scoileanna uile na Gaeltachta. Bhí sé mar cheann de tháscairí feidhmíochta mo Roinne go mbeadh “ballraíocht fholláin acu chomh maith le seirbhís agus cumarsáid rialta le scoileanna na Gaeltachta”. Idir 2007 agus 2009, bhí cumarsáid agus comhfhreagras idir mo Roinn agus an eagraíocht inar léiríodh go raibh cúis inní ann do mo Roinn maidir le plean forbartha na heagraíochta, easpa spriocanna sonracha agus easpa caidrimh eolais idir ESG agus rannpháirtithe eile san earnáil oideachais. Mar a deirim, ba é an tuiscint a bhí ag mo Roinn ná go mbeadh an eagraíocht ag feidhmiú mar bhrateagraíocht thar ceann scoileanna uile na Gaeltachta. Ón teagmháil a bhí ag foireann mo Roinne le scoileanna sa Ghaeltacht agus ón taighde a bhí déanta, bhí an chosúlacht air go raibh an teagmháil agus an caidreamh idir na scoileanna agus an eagraíocht neamhiomlán. Go deimhin, bhí go leor scoileanna sa Ghaeltacht nach raibh ar an eolas faoin eagraíocht ar chor ar bith. I mí Feabhra 2010, ag cruinniú cinn bhliana na heagraíochta, léiríodh míshástacht áirithe le feidhmiú na heagraíochta. I Meán Fómhair 2010, d’aontaigh an eagraíocht phlean straitéiseach nua agus leagadh amach spriocanna agus polasaithe don tréimhse 2010 go 2013. Faoi dheireadh 2011, ba léir go raibh plé ar siúl taobh istigh den eagraíocht féin agus le Gaelscoileanna agus é mar sprioc acu an dá eagraíocht a chónascadh. Ó

mhí na Samhna 2011 ar aghaidh, cheadaigh mo Roinn deontais reáchtála chun deis a thabhairt don eagraíocht an cónascadh a bhí á phlé acu le Gaelscoileanna a chur i gcrích: €70,000 don tréimhse ó Shamhain 2011 go Bealtaine 2012, €70,000 don tréimhse ó Mheitheamh 2012 go Nollaig 2012; agus €52,500 don tréimhse ó Bhealtaine 2012 go Nollaig 2013.

Thuig Eagraíocht na Scoileanna Gaeltachta go bhfuair siad airgead le dhá bhliain anuas ó mo Roinn ar an mbunús go rachadh an cónascadh a bhí i gceist acu ar aghaidh. Níor chóir mar sin go mbeadh aon iontas ar an eagraíocht go bhfuil deireadh leis an gcúnamh sin anois os rud é nach bhfuil an cónascadh sin ag dul ar aghaidh agus os rud é gur tógadh cinneadh ag cruinniú urghnách Dé Sathairn seo caite an eagraíocht a scor. Sna cúinsí sin, níl sé de rogha ag mo Roinn leanúint le maoiniú a chur ar fáil don eagraíocht. San aeráid eacnamaíoch reatha, caithfidh mo Roinn an éifeachtúlacht is fearr a bhaint as an soláthar atá ar fáil ón Státhiste. Sa chomhthéacs seo, ní miste na socruithe nua maoinithe d'Fhoras na Gaeilge, atá faofa ag an gComhairle Aireachta Thuaidh Theas, a lua agus cinneadh tógtha go mbeidh sé eagraíocht ceannais ag feidhmiú ar bhonn uile-oileáin le maoiniú ó Fhoras na Gaeilge i réimsí tosaíochta ar leith, lena n-áirítear oideachas trí mheán na Gaeilge. Táthar ag súil go mbeidh an eagraíocht ceannais a thiofadh chun tosaigh sa réimse seo ag freastal ar ghaelscoileanna agus ar scoileanna Gaeltachta araon. Ar ndóigh, beidh deis ag an eagraíocht, ag Gaelscoileanna agus ag aon eagraíocht eile iarratas a dhéanamh faoi phróiseas tairisceana an fhorais, más mian leo sin a dhéanamh.

Senator Trevor Ó Clochartaigh: Gabhaim buíochas leis an Aire Stáit. Tá an-díomá go deo orm leis an bhfreagra a thug sé dúinn. De réir na tuisceana atá againn, rinne an dá eagraíocht gach rud a iarradh orthu maidir leis an gcónascadh. D'fhág siad na comhráití ag doras Foras na Gaeilge agus an Roinn Ealaíon, Oidhreacht agus Gaeltachta. Níor fheidhmigh an Roinn agus an fhoras orthu sin. Tá gach cosúlacht ar an scéal go bhfuil gearradh siar de €140,000 in aghaidh na bliana á dhéanamh. Nuair a bhainfear an maoiniú sin as Eagraíocht na Scoileanna Gaeltachta, beidh deireadh leis an eagraíocht. Níl aon rogha ag an eagraíocht ach scor muna bhfuil aon ghealltanais maoinithe acu. Fiú ag an staid deireanach seo, iarraim ar an Aire Stáit gan fáil réidh le Eagraíocht na Scoileanna Gaeltachta. An bhfuil sé sásta cruinniú a ghairm idir feidhmeannaigh Fhoras na Gaeilge agus na Roinne agus ionadaithe na Gaelscoileanna agus Eagraíocht na Scoileanna Gaeltachta? Ba cheart staidéar a dhéanamh ar dhá rud ag an gcruinniú sin - an féidir leanúint ar aghaidh leis an gcónascadh a bhí beartaithe agus an féidir an €140,000 in aghaidh na bliana ó ciste na Gaeltachta, a bhíodh á chaitheamh ar scolaíocht Gaeltachta agus oideachas Gaeltachta, a fhágáil sa bhuiséad. Ní ghlacfaidh muid le gearradh siar den chineál sin.

Senator Brian Ó Domhnaill: Tá mórchuid ráite ag an Seanadóir Ó Clochartaigh agus agam féin. Tá díomá orm faoin fhreagra. Is léir go bhfuil sé seo mar chuid den mhéid atá socruithe sa chomhthéacs maoinithe nua le Foras na Gaeilge. Níor thug muidne tacaíocht don pholasaí sin nuair a bhí á phlé againn. D'ardaigh muid ceisteanna faoi nuair a bhí an polasaí úr sin á thabhairt chun tosaigh ag an Rialtas. Tá obair iontach déanta ag an eagraíocht seo. Ní dóigh liom go bhfuil sé féaráilte locht a chaitheamh orthu má tá ceist faoin ról atá acu. Molaim don Aire Stáit, má tá sé sásta é a dhéanamh fiú ag an bpointe seo, suí síos leis an eagraíocht agus an ábhar seo a phlé leo. B'fhéidir gur féidir teacht ar dóigh chun maoiniú a chur ar fáil. Ní airgead mór atá i gceist anseo i gcomhthéacs todhchaí an teanga agus an straitéis 20 bliain don Ghaeilge. Molaim don Aire Stáit buaileadh leo, más féidir. Tá súil agam go bhfuil sé sásta suí síos leo agus an ábhar seo a phlé.

Deputy Dinny McGinley: Bhí níos mó na cruinniú amháin agam leis an eagraíocht seo le cúpla bliain anuas. Bhí ar a laghad dhá nó trí chruinniú agam leo. Mar a dúirt mé, fuair siad

an t-airgead le dhá bhliain anuas ar an tuiscint go raibh cónascadh le déanamh idir iad féin agus na Gaelscoileanna. Ní raibh sé mar fhreagracht ar an Roinn, ar an bhforas, ar an údarás nó ar dream ar bith eile an cónascadh agus an comhtháthú seo a eagrú - bhí sé le réiteach idir an dá eagraíocht. Tar éis dhá bhliain agus allúntas coinníollach a fháil acu, más féidir liom é a chur mar sin, ní raibh aon dul chun cinn déanta. Ní fhéadfaimís dul ar aghaidh mar seo bliain in aghaidh bliana.

Maidir le oideachais Gaeilge agus oideachais Gaeltachta, tá baint dhíreach ag eagraíochtaí áirithe le gach scoil Gaeltachta sa tír seo. Ní gá dom cur in iúl don Seanadóir Ó Clochartaigh nó don Seanadóir Ó Domhnaill go bhfuil eagraíochtaí cosúil le Muintearas i dteagmháil go rialta - gach lá sa tseachtain - le scoileanna ar fud na Gaeltachta. Nuair a bhí mé i gCorca Dhuibhne ag an deireadh seachtaine, d'fhoghlaim mé go mbíonn Comharchumann Forbartha Chorca Dhuibhne i dteagmháil le scoileanna Gaeltachta i gCúige Mumhan. Tá na heagraíochtaí sin ann. Nuair a déanfar tuilleadh plé ar an gceist seo amach anseo, b'fhéidir go mbeidh ról ag eagraíochtaí mar sin, atá istigh sna scoileanna lá i ndiaidh lae.

Dúradh nach bhfuil i gceist anseo ach cúpla euro nó mar sin, ach tá gach €140,000 thar a bheith tábhachtach i láthair na huairé nuair atáimid ag iarraidh oiread agus is féidir linn a dhéanamh laistigh de na hacmhainní teoranta atá againn. Má tá eagraíochtaí istigh sna scoileanna ag plé leo cheana féin, agus aithne fairsing ar gach rud atá ag tarlú sna scoileanna, caithfidh amharc ar na féidearthachtaí - b'fhéidir go bhfuil siad in ann ionadaíocht a dhéanamh maidir le oideachas sa Ghaeltacht. Mar a dúirt mé, tá socrú déanta agam leis an Aire ó Thuaidh, Carál Ní Chuilín, i dtaobh na heagrais bunmhaoinithe. Beidh ceann de na heagraíochtaí nua ag plé le oideachas trí Ghaeilge. Ní fheicim an fáth nach mbeidís in ann plé a dhéanamh leis an oideachas ó Thuaidh agus ó Dheas - ar an oileán ar fad.

Ba mhaith liom a rá mar fhocal scoir go bhfuil seimineár á réachtáil faoi scáth na Roinne i mBaile Átha Cliath amárach. Tá cuireadh faighte ag na heagraíochtaí Gaeilge go léir teacht chuig an seimineár sin. Is dócha go mbeidh an cheist seo á phlé ansin. Tá an dearcadh atá agam i láthair na huairé leagtha amach agam. Bhí an cónascadh agus an comhtháthú le déanamh, ach tar éis dhá bhliain ní raibh sé tarlaithe go fóill. Tháinig baill na heagraíochta le chéile ag cruinniú an-tábhachtach ag an deireadh seachtaine agus tá siad tar éis an eagraíocht a scor ag an bpointe seo.

Seirbhísí Leathanbhanda

Senator Thomas Byrne: Ba mhaith liom fadhb áirithe a bhaineann le scoil Gaeltachta a lua agus a phlé leis an Aire Stáit. Baineann an fhadhb an-ghéar seo le Scoil Náisiúnta Ultain Naofa i nGaeltacht Baile Ghib, in aice le Ceanannas Mór i gContae na Mí. Níl aon sheirbhís leathanbhanda acu faoi láthair. Nuair a bhíomar ag caint faoi teagmháil agus cónascadh, srl., rith sé liom nach bhfuil muintir na scoile seo in ann ríomhphost a oscailt ar maidin nó déileáil leis an Roinn Oideachais agus Scileanna. Tuigim go dtagann gach teagmháil ón Roinn ar an ríomhphost ar an Idirlíon faoi láthair. Ní féidir le muintir Scoil Náisiúnta Ultain Naofa leas a bhaint as an gcúnamh seo toisc nach bhfuil seirbhís leathanbhanda acu. Bhí seirbhís den chineál seo acu roimh an samhradh. Dúirt rúnaí na scoile liom gur fhoghlaim sí nuair a tháinig sí isteach sa scoil i rith mí Iúil nach raibh an tseirbhís ar fáil a thuilleadh.

Tuigim go bhfuil an scoil tar éis gearán a dhéanamh leis an aonad sa Roinn a bhíonn ag déileáil leis an gceist seo, ach níl aon rud ag tarlú. Faoi láthair, ní féidir le muintir na scoile

ríomhphost a úsáid chun teagmháil a dhéanamh nó an tIdirlíon a úsáid i rith na scoile. Nuair a d'ardaigh mé an cheist chéanna ar an Athló an Déardaoin seo caite, i gcomhthéacs scoil eile i gContae na Mí, tháinig an oiread sin scoileanna eile chugam ag gearán nach bhfuil seirbhís leathanbhanda acu. Baineann fadhbanna áirithe le seirbhísí satailíte. Is seirbhís talamh - gnáth-sheirbhís leathanbhanda - atá i gceist i gcás na scoile seo. Iarraim ar an Aire Stáit a rá liom go mbeidh réiteach ar an bhfadhb seo agus go gheobhaidh Scoil Náisiúnta Ultain Naofa i mBaile Ghib seirbhís úsáideach leathanbhanda go luath.

Deputy Dinny McGinley: Tá mé ag seasamh isteach don Aire Oideachais agus Scileanna anocht.

Senator Thomas Byrne: Tuigim.

Deputy Dinny McGinley: Ba mhaith liom buíochas a ghabháil leis an Seanadóir as ucht ceist na leathanbhanda i scoileanna a tharraingt anuas arís. Mar a luaigh sé, rinne sé tagairt do na fadhbanna atá ag Scoil Náisiúnta Ultain Naofa lena nasc leathanbhanda an tseachtain seo caite, i gcomhthéacs díospóireacht ar an Athló faoin tseirbhís leathanbhanda i Scoil Náisiúnta na Tríonóide Naofa i Lios Muilinn. Mar a bhí ráite ag an am sin, tuigeann an Rialtas an tábhacht a bhaineann le leathanbhanda chun teicneolaíocht faisnéise agus cumarsáide a chomhtháthú le múineadh agus foghlaim agus chun scileanna litearthachta dhigiteach na ndaltaí a fhorbairt.

Tugann an clár teicneolaíocht faisnéise agus cumarsáide i scoileanna faoi dhúshláin bheartais agus deiseanna a eascraíonn as príomhfhorbairtí in athchóiriú curaclaim, foilsitheoireacht dhigiteach, uirlisí chun ábhar digiteach a scaipeadh i gcoitinne, seirbhísí scamall, ríomhaireacht iniompartha agus gléasanna daltaí. Tá pleanáil faoi shiúl chun plean teicneolaíocht faisnéise agus cumarsáide nua a fhorbairt, i gcomhréir le clár an Rialtais. Is í an chéad chéim den bpróiseas ná áireamh teicneolaíocht faisnéise agus cumarsáide i scoileanna a chomhlánú le príomhthéamaí áirithe cosúil le tionchar teicneolaíocht faisnéise agus cumarsáide ar mhúineadh, foghlaim agus measúnú, infreastruchtúr teicneolaíocht faisnéise agus cumarsáide, na tuairimí ar na deiseanna a eascraíonn as comhtháthú teicneolaíocht faisnéise agus cumarsáide i múineadh, foghlaim agus measúnú a fhiosrú, na constaicí a bhaineann le comhtháthú teicneolaíocht faisnéise agus cumarsáide agus conas dul i ngleic leo. Cuirfear próiseas comhairliúcháin poiblí ar bun i dteannta leis sin chun a chinntiú go mbeidh deis ag gach páirtí leasmhar a thuairimí a chur faoinár mbráid. Soláthróidh an t-aiseolas ón bpróiseas seo agus torthaí an áirimh scoileanna bonn taighde iontaofa chun cinntí beartais a dhéanamh ar chomhtháthú teicneolaíocht faisnéise agus cumarsáide a chur chun cinn i múineadh agus foghlaim i rith na cúig bliana seo chugainn.

Faoin gclár rochtana leathanbhanda do scoileanna, soláthraíonn an Roinn Oideachais agus Scileanna nascacht idirlín do bhunscoileanna agus iar-bhunscoileanna a bhfuil fonn orthu leas a bhaint as an tseirbhís. Rinneadh ath-thairiscint ar gach conradh faoin gclár rochtana leathanbhanda do scoileanna faoin bpróiseas soláthar poiblí i 2011-12 agus bronnadh na conarthaí anuraidh. Mar thoradh ar seo, tháinig méadú ar an líon soláthróirí óna sé go dtí 13. Rinne an Roinn gach iarracht an spleáchas ar seirbhísí níos moille a laghdú agus dá bharr, tá an líon scoileanna ag oibriú ar nasc satailíte laghdaithe ó 1,800 sa bhliain 2005 go thart ar 200 anois. Is mór an dul chun cinn é sin. Faoin bpróiseas soláthar i 2012, ba é an t-aon réiteach leathanbhanda a tairgíodh do Scoil Náisiúnta Ultain Naofa ná nasc líne oscailte mall. Bronnadh na naisc mall seo agus naisc satailíte sa chás nach raibh aon réiteach eile tairgthe agus bronnadh na conarthaí seo d'aon bhliain amháin.

Rinneadh ath-thairiscint ar na conarthaí sna scoileanna seo, Scoil Náisiúnta Ultain Naofa

san áireamh, i mion-chomórtas i mí Lúnasa na bliana seo chun fháil amach an mbeadh réitigh níos fearr ar fáil. Faoi láthair, tá oifigigh na Roinne Oideachais agus Scileanna ag measúnú agus ag bronnadh conarthaí mar pháirt den mhion-chomórtas seo. Tá conarthaí á bhronnadh do soláthróirí do 122 scoileanna ina bhfuil naisc satailíte faoi láthair, san áireamh 13 scoileanna a cuireadh leis an mbronnadh ón 26 Meán Fómhair 2013. Rinneadh tairiscint ar Scoil Náisiúnta Ultain Naofa faoin mion-chomórtas ach níl sé athbhronnta go fóill. Beidh bronntaí breise déanta sna seachtainí atá amach romhainn le sriantachtaí airgeadais a chur san áireamh. Gabhaim buíochas leis an Seanadóir as deis a thabhairt dom an cheist seo a phlé. Mar a dúirt mé, tá súil agam go ndéanfar dul chun cinn ar an ábhar seo sna seachtainí amach romhainn.

8 o'clock

Senator Thomas Byrne: Gabhaim buíochas leis an Aire Stáit as an bhfreagra a thug sé dom, ach tá díomá orm maidir leis an ábhar seo go ginearálta. Bhí mé ag caint le daoine ina lán scoileanna agus is dóigh liom nach raibh mórán teagmhála acu leis an Roinn maidir le seo. Nuair a bhí mé ag caint leis an rúnaí scoile agus daoine eile ó Scoil Náisiúnta Ultain Naofa, ní raibh siad ar an eolas ina thaobh. Bhí an córas leathanbhanda ag obair go breá roimh an samhradh, ach níl sé ag obair a thuilleadh. Tá an scéal céanna á chloisint agam maidir le scoileanna eile. Is iad na scoileanna iargúlta atá ag lorg na seirbhíse seo, ach tá sé deacair í a fháil.

Caithfidh mé rud eile a lua anseo. Measaim go bhfuil taighde á dhéanamh ag an Rialtas faoi láthair maidir leis an gclár teicneolaíocht faisnéise agus cumarsáide sna scoileanna. Ní féidir leis na scoileanna seo páirt a ghlacadh sa taighde mar nach bhfuil siad in ann seirbhís leathanbhanda ná an Idirlíon a úsáid nuair is gá freagraí a sheoladh ar ais. Mar sin, ní gheobhaidh an Roinn na staitisticí cearta. Is é an rud is tábhachtaí do na scoileanna ná go mbeidh siad in ann an t-Idirlíon a úsáid go rialta gach lá agus obair na scoile a dhéanamh acu. Tá a lán gur féidir le daltaí a fhoghlaim ón Idirlíon. Mar is eol don Aire Stáit, tá an t-Idirlíon in úsáid an t-am ar fad i scoileanna. Tá mé ag súil go gcuirfear an tseirbhís seo ar fáil don scoil go luath.

Deputy Dinny McGinley: Aontaím leis an méid atá le rá ag an Seanadóir faoi chomh tábhachtach agus atá sé go mbeidh seirbhís den scoth ar fáil. Tá éileamh ar modhanna nua múinte don curaclam agus mar sin de. Is cinnte go bhfuil dul chun cinn suntasach déanta ón am nuair a bhí 1,800 scoil ag fáil seirbhís satailíte. Tá an figiúr sin laghdaithe go dtí 200 anois. Mar atá ráite agam, déanfar dul chun cinn i dtaobh 122 scoil eile i mbliana. Tá scrúdú agus breathnú á dhéanamh ar Scoil Náisiúnta Ultain Naofa, atá luaite ag an Seanadóir, i láthair na huair. Beidh bronntaí breise déanta sna seachtainí atá amach romhainn, ach caithfear smaoineamh ar sriantachtaí airgeadais mar is iondúil. Is beag scoil atá fágtha gan an tseirbhís seo anois. Is cosúil go bhfuil fadhbanna fós i roinnt scoileanna i gceantair iargúlta. Sílim go bhfuil an chuid is mó den chath troidte. Cé nach bhfuil an oiread sin le déanamh, ní shílim gur chóir go mbeadh aon scoil fágtha ina éagmais.

The Seanad adjourned at 8.05 p.m. until 10.30 a.m. on Thursday, 3 October 2013.