



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Visit of Delegation from Republic of Korea	738
Leaders' Questions	738
Order of Business	744
Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2013: First Stage	750
Non-Use of Motor Vehicles Bill 2013: Order for Report Stage	750
Non-Use of Motor Vehicles Bill 2013: Report and Final Stages	750
Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013: Second Stage (Resumed)	750
Topical Issue Matters	757
Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013: Second Stage (Resumed)	759
Houses of the Oireachtas Inquiries (Privileges and Procedures) Bill 2013: Referral to Select Committee	792
Topical Issue Debate	793
Defence Forces Equipment	793
Corporation Tax	795
State Banking Sector	798
Schools Recognition	802
Ceisteanna - Questions	805
Priority Questions	805
Public Sector Pay	805
Sale of State Assets	809
Public Sector Staff Remuneration	813
Other Questions	815
Private Sector Investment	815
e-Government and ICT	818
Public Sector Staff Recruitment	818
Lobbying Regulation	820
Croke Park Agreement	822

DÁIL ÉIREANN

Déardaoin, 23 Bealtaine 2013

Thursday, 23 May 2013

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Visit of Delegation from Republic of Korea

An Ceann Comhairle: Before proceeding with business, I wish on my own behalf and on behalf of the Members of Dáil Éireann to offer céad míle fáilte, a most sincere welcome, to a parliamentary delegation from the Republic of Korea led by Mr. Park Sang-eun, who is the president of the Korea-Ireland Parliamentary Friendship Group. I express the hope that the members of the delegation will find their visit enjoyable, successful and to our mutual benefit. They are very welcome.

Leaders' Questions

Deputy Micheál Martin: I would like to start by condemning yesterday's terrorist attack in London, during which a soldier was barbarically killed. Our sympathies and thoughts are with the family of the deceased soldier and with the British people at this appalling moment.

I think the Tánaiste will agree that the early years of a child's life are the most fundamental for his or her development. I refer to aspects of social education like the development of self-esteem and self-confidence. A child learns and develops more in the first three years than in the rest of his or her life. It has been reported that a forthcoming edition of RTE's "Prime Time" on standards in crèches will reveal damaging and worrying mistreatment of children. This will cause widespread alarm and concern among people across the country. It will cause significant distress to thousands of parents who send their children to child care facilities. I understand from media reports that in one crèche, a staff member has been dismissed and three others have been suspended. Staff members have been suspended in another crèche that will fall under the spotlight of this programme.

A meeting was held last Thursday night in Malahide at which parents were briefed on the findings of the "Prime Time" investigation. According to a report in today's media, a crèche

23 May 2013

owner who has viewed the undercover footage taken by RTE has described the actions of staff as “wholly inappropriate, inexcusable and unacceptable”. The parents concerned are understandably furious about these developments. I understand that footage which was recorded in a room where younger children are kept shows children being shouted at, bad language being used and bottles being thrown, etc. I believe that such absolutely unacceptable and disgraceful behaviour forms the content of the programme in question. Everyone in the House will be concerned to hear such reports.

Can the Tánaiste indicate whether the Minister for Children and Youth Affairs has been made aware of these allegations and revelations? Can he confirm the nature of the HSE and Garda inquiries into these matters? Can he reassure parents across the country whose children are in child care facilities that their children are safe in such facilities? Can he confirm that there is a robust inspectorial regime with the capacity to identify this type of behaviour and mistreatment of children in crèches? Are the resources available to the HSE and the inspectorial authorities adequate to uncover and identify failings of this nature?

The Tánaiste: I want to join Deputy Martin in condemning the shocking terrorist attack on a soldier in London yesterday. I am conveying on behalf of the Government our deepest sympathy with the British Government and, particularly, with the family, friends and colleagues of the soldier who was attacked.

I agree with Deputy Martin that the early years of a child’s life are critical. When parents arrange for the care of their children, particularly their young children, they have a right to expect that they will be properly cared for and will not be subjected to any kind of mistreatment, verbal or otherwise. As we know, it has been reported that a number of crèches in north and south County Dublin are being investigated by the Garda and the HSE following allegations of mistreatment of children, such incidents having been recorded secretly by RTE. These allegations tap into every parent’s worst nightmare. Parents who dropped their children off at crèches this morning need to have confidence and trust in the people who look after their children. As a Government, we are deeply concerned about these reports. It is shocking and disappointing that any person whose role is to care for our youngest children could behave in the manner described.

The mistreatment or abuse of children is unacceptable in any setting. All such incidents should and must be reported to the relevant authorities, as has rightly happened in this case. I understand the Garda and the HSE are investigating this matter. Any parent who has concerns regarding practices in a crèche can report them to the HSE for investigation by its child care inspectorate. If such concerns relate to child protection matters, the HSE works with the Garda in line with the Children First guidance. I understand the HSE will be shown the footage in this case later today, at which time it will be in a better position to understand the extent of these problems.

In view of some of the reports, however, the HSE has already been in touch with the Garda and I understand RTE is already liaising with the Garda in this case. An investigation is under way into these allegations. Clearly, what we have to date is what has been reported. The matter has been reported to the HSE, which is conducting an investigation in conjunction with the Garda.

Deputy Micheál Martin: I thank the Tánaiste for his reply, which essentially confirms a very disturbing situation where investigations are under way in terms of mistreatment of chil-

dren in crèches in this city. It also highlights the issue around the inspection and monitoring of standards in such facilities and the adequacy of such inspections.

I know the Minister was asked some time ago whether the Health Information and Quality Authority, HIQA, should be tasked with ensuring standards are adhered to in private and public crèche facilities. The reply was somewhat equivocal on the point about an expanded role for HIQA. Currently, it inspects under sections 38 and 39 of the Health Act 2004. By any objective perspective, most people would accept HIQA's work has been of extremely high quality in the various areas it has operated to date. Nonetheless, the revelations that are emerging call for a reassessment. The Minister said the Department would continue to review and monitor the regulatory environment for preschool services. This has been a very significant wake up call given the context of the revelations we have heard about and which the Tánaiste has confirmed - or he has at least confirmed the investigations into those incidents. A stronger role for HIQA is called for.

I ask the Tánaiste to confirm that the Minister would be of a disposition to give an enhanced role to HIQA in this arena. Second, will he indicate when the Children First Bill and the child and family agency Bill will be published? These are critical pieces of legislation that have been awaited for some time.

The Tánaiste: The Minister for Children and Youth Affairs is giving the highest priority to the reports we have heard and to the investigations which are under way. She is and will be receiving up-to-date reports on the progress of those investigations and she is taking a direct and personal interest in them.

With regard to the inspection of child care facilities, in both 2011 and 2012 over 2,600 child care providers were subject to inspection by the HSE. Basically, what we need here is that parents are assured the Irish child care sector is safe and that practitioners are committed to ensuring the highest standards of care for children. For that reason, the Government has brought in updated Children First guidance on child protection and is currently finalising the legislation to put compliance with Children First on a statutory footing. The Government has also brought in the National Vetting Bureau (Children and Vulnerable Persons) Act, which puts on a statutory basis the mandatory vetting of persons who are working with children or other vulnerable people. There has been a problem with regard to the processing of applications for vetting, and the Department of Public Expenditure and Reform has granted sanction for an additional 25 staff to be redeployed from the Department of Agriculture, Food and the Marine to the Garda central vetting unit. These personnel are currently undergoing training and will be operational within a short time.

The Government is very conscious of the continuing imperative to deliver improvements in quality in the early years of child care provision. HIQA has, for the first time, been given responsibility for child protection standards. The actual inspection of the child care facilities is a matter for the HSE and for the inspectorate which has that responsibility. The cases which are now in the public domain, and which are the subject of the RTE documentary, are being investigated by the HSE and by the Garda. We are taking the issue very seriously indeed.

Deputy Jonathan O'Brien: I would like to raise with the Tánaiste the growing concern on the delivery of mental health care provision, which is having a profound impact on some of our most vulnerable citizens, particularly young people. A recent report by the Inspectorate of Mental Health Services found that children and teenagers needing psychiatric care are being de-

23 May 2013

nied admission to facilities while beds within some of those facilities go unoccupied as a result of staff shortages. Depending on which report one reads, it is estimated that, at times, up to half of the beds in these facilities are not being utilised. This is at a time when there are growing waiting lists and waiting times for admission, in some cases of up to six months.

We have had cases where parents of vulnerable children are being asked to send their children from the Munster region to facilities in Dublin. In one such child and adolescent unit in Cork, for example, only 12 of the 20 beds available within that unit were being utilised last March. This was despite the fact that 15 people were waiting to be admitted on the day the inspectorate visited that unit. I am sure the Tánaiste will agree that is unacceptable. As recently as December, the mental health inspectors expressed concern over the welfare of a vulnerable child in the Cork area who was admitted to an adult psychiatric unit. They described the appalling situation where the child in question was left isolated in a bedroom, with no therapeutic intervention apart from medication.

What is being done to address the lack of psychiatric units for children and young people? What is being done to ensure child and adolescent psychiatric units have the necessary staff in place to allow the full utilisation of the beds available within those facilities?

The Tánaiste: It is fair to say the area of mental health has been an area of our health services which has not received sufficient attention. This Government, however, has decided to give the issues of mental health a very high priority and has given specific responsibility to the Minister of State, Deputy Kathleen Lynch, to address those issues. She is making very significant progress in improving the mental health services within our health system.

A special allocation of €35 million for mental health was announced in budget 2012. That was used primarily to further strengthen community mental health teams in both adult and child mental health services. Some 414 mental health posts were approved as part of budget 2012 and, as of 30 April this year, 383 posts have been filled, are under offer or are awaiting clearance. In addition, she has also dedicated funds to, in particular, advance suicide prevention initiatives and she has been working on that issue. She is taking the lead in committing to implement the recommendations of Reach Out, which is a national strategy for action on suicide prevention.

Right across the whole mental health area, a very significant amount of progress has been made by the Minister of State, Deputy Lynch. She is continuing, together with the Minister, Deputy Reilly, to work on the development of our mental health services, to give them the priority they deserve and to address the continuing challenges which we all acknowledge exist in the mental health area.

Deputy Jonathan O'Brien: I thank the Tánaiste for his reply. He mentioned the 414 posts due to be filled and said that as of April 383 of them had been filled. When is it hoped the full allocation of posts will be completed? Also, it does not take into account retirements within that sector; therefore, I would be interested in knowing the net figure.

The Tánaiste mentioned the issue of suicide. I am sure he is aware of the recent report published by the charity 3Ts which made for shocking reading. Some of the statistics within it were very worrying. It indicated that Ireland had the fourth highest suicide rate in the European Union for those aged between 15 and 24 years. It is simply unacceptable to have a situation where facilities in place to help young children and adolescents suffering from mental health

issues are not fully utilised. Does the Tánaiste accept that more needs to be done in providing counselling services for those at risk and their families, as well as the provision of information and education services? Can he give a commitment that the provision of funding for suicide prevention measures and mental health care services for young children and adolescents will be made a priority in the upcoming budget?

The Tánaiste: The question is in two parts. In respect of staff numbers, of the 414 posts approved in budget 2012, 383 have been filled, are on offer or are awaiting clearance. Progress is being made on the remainder. In budget 2013 a further €35 million was allocated for the development of mental health services. This includes the recruitment of 477 additional staff to implement these measures. I understand the HSE is making arrangements to commence the recruitment process very soon.

I welcome the Suicide in Ireland survey which was published on Monday. It is certainly a very welcome contribution to the debate on suicide. Some of the funding to which I referred will be used to advance further suicide prevention initiatives and initiate the provision of psychological and counselling services at primary care level specifically for people with mental health problems. The Minister of State, Deputy Kathleen Lynch, is committed to implementing the recommendations of the national strategy for action on suicide prevention. I am happy to be able to inform the House that the National Office for Suicide Prevention has implemented most of the recommendations in the strategy and reviewing its current activities to make the most of the available resources, including looking at best practice internationally.

Priority suicide prevention initiatives identified for this year include further development of existing national mental health awareness campaigns to promote help seeking, increased training for GPs and practice staff; building the capacity of communities to respond to suicide; implementation of the clinical care programme on self-harm which will include the funding of nursing posts within hospital emergency departments; training of acute hospital staff on suicide and self-harm intervention measures; the development of the SCAN model which allows for crisis interventions at primary care level; and continued investment in voluntary agencies providing services.

The annual budget for suicide prevention initiatives increased in 2012 to over €12 million. A total of €7.1 million is administered by the National Office for Suicide Prevention. This includes an additional €3 million from the special allocation for mental health services used to fund voluntary and statutory agencies delivering services in the areas of prevention, intervention and research. The remaining €5 million is available regionally to fund resource officers for suicide prevention, self-harm liaison nurses in hospital emergency departments and local suicide prevention initiatives. In 2013 a further €1 million is being provided for the National Office for Suicide Prevention, bringing the total available to over €8 million. A special programme of measures to further advance suicide prevention in 2013 is being developed and will be announced by the Minister of State.

Deputy Mattie McGrath: I offer my sympathy and that of the Technical Group to the community of Woolwich in south London and voice our revulsion at what happened yesterday.

We have heard much in the past few days about the need for accountability and transparency in Irish politics, particularly at ministerial level. We have heard the Minister for Justice and Equality say time and again that it was in his judgement both necessary and in the public interest for him to point out that Deputy Mick Wallace had been a beneficiary of the discretionary

exercise of powers by An Garda Síochána. He also said he had made the point not to make a political charge or for any personal benefit but to defend the integrity of An Garda Síochána. It is in that context and strictly with these concerns in mind that I ask the Tánaiste to inform the House if either he or the Taoiseach is aware whether the Minister was stopped at a Garda checkpoint in Dublin in late February or March 2011, in the period between the general election and his appointment to the august office of Minister for Justice and Equality. Is the Tánaiste or the Taoiseach aware whether he was cautioned on that occasion by a garda under the Road Traffic Act 2010 or whether the gardaí used their discretion on that occasion? This would seem to have a very high bearing on the debate. Other questions relate to whether he was asked to produce a breath specimen under the mandatory breath testing provision contained in the Road Traffic Act 2010, whether his behaviour and reaction to this request were appropriate and cordial, whether he attempted to use the privilege of travelling to and from the Dáil as a means of avoiding a breath test or being stopped at a Garda checkpoint and whether he gave a breath specimen. Will the Tánaiste, in the public interest and to facilitate greater transparency, call on the Minister to make available immediately the Garda report on that incident?

The Tánaiste: I have no idea if the Minister for Justice and Equality was stopped by gardaí before or after the general election. How would I know that? The only thing I can say to the Deputy is that I remember being stopped and breath-tested at Galloping Green on my way home one night. Happily, I passed it. I was stopped on another occasion at the Loughlinstown roundabout. I can account for myself, but I certainly cannot account for when any other Member of this House, or a member of the public for that matter, was stopped by gardaí, breathalysed or cautioned. As we discussed here in the past couple of days, that is a matter between the Garda and the individuals concerned. I have no idea what the Deputy is talking about.

Deputy Mattie McGrath: I thank the Tánaiste. I do not raise it as a joke and think the Tánaiste is missing the point. It is the Minister for Justice and Equality about whom we are talking and it is relevant because of the events that took place since he was appointed and the way he has treated the public and An Garda Síochána. The events of last week involving the fixed penalty points controversy have highlighted the principle that there must be one law in this country that is applied to all citizens. They also highlight the ongoing need to restore and maintain public confidence in the institutions of the State. That is a duty of the Tánaiste. They highlight the need not to allow a perception to develop that there are double standards. I hope the Tánaiste thinks it is funny, like many other things happening to this country that the Government seems to think are funny but which cause misery for people. I do not expect him to know, but I would expect him to inform himself, to ask the Taoiseach to inform himself and to ask the Minister to come before the House to make a statement to clarify the matter and make the Garda report available.

11 o'clock

The Tánaiste: I do not have any information about the matter. With regard to the contact of the public with the Garda Síochána, road traffic matters are the reason most people come into direct contact with the enforcement of the law. The first critical issue is that the law is applied fairly and evenly to everybody. Second, as we have discussed here on a number of occasions, there is a discretion - a common sense judgment and approach - which gardaí are expected to take and which, by and large, they take in how they apply the law. It is appropriate that this continues to be case in the context of the fixed penalty points regime. It is also important that there is general confidence that the law is being enforced in an even-handed way and that there is not any special treatment for some people as against others. This is a very important principle

that needs to apply. Third, as has been aired in this House over the course of the past days, there are also issues of privacy that arise in this case and not just privacy with regard to any contact or reports that the Garda Síochána gives to Ministers or whatever, but also privacy with regard to some reports that appear in the public domain from time to time and one can only wonder where they have been sourced. It is important to bear those principles in mind and to ensure there is public confidence in the application of the law, particularly in this area of road traffic offences which is the main area where most people encounter the enforcement of the law and have direct contact with members of the Garda Síochána.

Order of Business

The Tánaiste: It is proposed to take No. 18, Non-Use of Motor Vehicles Bill 2013 - Order for Report and Report and Final Stages; and No. 2, Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 - Second Stage (Resumed). It is proposed, notwithstanding anything in Standing Orders, that for the purposes of Standing Order 117A the first Friday of the month for June shall be Friday, 14 June 2013; the time and date by which notice of a Bill in connection with that sitting shall be received by the Clerk shall be 11 a.m. on Friday, 31 May 2013 and related Standing Orders shall apply accordingly.

An Ceann Comhairle: There is one proposal to be put to the House. Is the proposal for the sitting and business of the Dáil on Friday, 14 June 2013, agreed to? Agreed.

Deputy Micheál Martin: I wish to raise two matters. The Central Bank reported yesterday the limited progress on dealing with longer-term mortgage arrears. Only 6% of those in mortgage difficulty have been given a permanent rescheduling of their debt, with 19% given a temporary arrangement and no assistance whatsoever for the rest. These are dismal statistics. I ask the Tánaiste to indicate what the Government intends to do about it, in particular, when the Central Bank (Supervision and Enforcement) Bill will be implemented.

I ask the Tánaiste to clarify why the Taoiseach, Deputy Kenny, the Minister for Finance, Deputy Noonan and the Minister for Justice and Equality, Deputy Shatter, met with the tobacco industry earlier this month. This is disturbing news, given that the industry's sole objective in life is to sell cigarettes and to target young people in particular-----

An Ceann Comhairle: That is not strictly in accordance with Standing Orders.

Deputy Micheál Martin: -----so that they will become addicted at a very young age. The Minister is promising legislation to curb further the negative impact of tobacco on young people in particular. This is an addiction which kills thousands of people. We are also promised legislation on lobbying and lobbyists. The history of the tobacco industry reflects and reveals one of the worst examples of behind-the-scenes lobbying of governments across Europe and the world. It has had a devastating impact on the lives of children and people across countries and continues to do so. I would like to know why the Taoiseach, the Minister for Finance and the Minister for Justice and Equality-----

An Ceann Comhairle: The Deputy knows this is not in order.

Deputy Micheál Martin: -----met with the tobacco industry. I ask the Tánaiste to indicate

23 May 2013

when the Bill on lobbying will be brought forward.

The Tánaiste: The Central Bank report contains the same information as was made public in March. This is the information pertaining to 2012. Many things have happened since the end of 2012, such as the introduction of the personal insolvency legislation, with the result that the Personal Insolvency Service will be up and running by the end of June. Targets have now been set for the banks to make resolution offers to people in mortgage distress. The target has been set that 50% of those in mortgage arrears will be made resolution offers by the end of this year. Considerable progress has already been made in respect of the mortgage arrears issue since the period to which that report applied.

The Central Bank (Supervision and Enforcement) Bill is awaiting Report Stage. The Public Health (Tobacco) (Amendment) Bill is on Committee Stage in the Seanad. In reply to Deputy Martin's question, the Government meets with industry representatives at different levels as this is part of the normal work of government-----

Deputy Micheál Martin: It has not been the case with regard to the tobacco industry for a long time.

An Ceann Comhairle: We cannot have a debate on the matter.

The Tánaiste: The issue of what Deputy Martin calls behind-the-scenes lobbying was a feature of the Governments in which he served for a very long period of time-----

Deputy Micheál Martin: That is not fair; the Tánaiste should withdraw that remark.

The Tánaiste: That is why we have felt it necessary to bring in legislation on the regulation of lobbying-----

Deputy Micheál Martin: He should check the Labour Party officials in the past. They were the most active with the tobacco industry. The Tánaiste should talk to former members of his party. The Labour Party were the greatest inside-trackers with the tobacco industry for a long time-----

An Ceann Comhairle: Sorry, Deputy, this out of order.

The Tánaiste: -----which will be introduced by the end of 2013.

Deputy Micheál Martin: The Tánaiste knows that.

The Tánaiste: The Deputy asked a question.

Deputy Micheál Martin: I do not want any misleading replies.

An Ceann Comhairle: Just a moment, we are not having a debate across the floor. The Deputy should table a parliamentary question.

The Tánaiste: There are no misleading replies.

Deputy Micheál Martin: Can the Tánaiste not answer a question without partisan misinformation-----

The Tánaiste: The shelves of the offices of every Member of this House are creaking with the weight of reports from tribunals about the back-door lobbying that was engaged in by Fi-

anna Fáil Ministers down the years.

Deputy Micheál Martin: What about the Moriarty tribunal?

The Tánaiste: We are bringing in a regulation of lobbying Bill which will provide-----

(Interruptions).

An Ceann Comhairle: We are not having a debate on this, please.

The Tánaiste: -----a register of lobbyists. The heads of the Bill were approved-----

Deputy Micheál Martin: Former Labour Party officials-----

The Tánaiste: The Deputy should listen to the progress.

Deputy Micheál Martin: The Tánaister should listen before he throws stones.

The Tánaiste: I am answering the Deputy's question. He should not be so arrogant. He asked a question and I am answering it. He wants to know about legislation-----

(Interruptions).

An Ceann Comhairle: Please allow the Tánaiste to reply to the question.

The Tánaiste: -----to register lobbyists. This Government is bringing in a Bill to register lobbyists. We approved the heads of the Bill on 30 April and it will be published this year. It is long overdue and it is high time that we have legislation that will register and control the activities of lobbyists and lobbying in this country.

(Interruptions).

An Ceann Comhairle: I call Deputy Jonathan O'Brien.

Deputy Emmet Stagg: Pull down the tent in Galway.

An Ceann Comhairle: I have called Deputy O'Brien; please allow him to speak.

Deputy Jonathan O'Brien: Tomorrow is Friday, lads.

I ask the Tánaiste about the child benefit proposals contained in the Mangan report. There are concerns about some of the comments made by various Ministers. The Tánaiste said there will be no change and the Minister for Education and Skills, Deputy Quinn-----

An Ceann Comhairle: We cannot have a debate on this now. We are not debating child benefit.

Deputy Jonathan O'Brien: The Minister, Deputy Quinn, has expressed an opinion that some of the savings could be used to provide a second preschool year.

An Ceann Comhairle: What legislation?

Deputy Jonathan O'Brien: The social welfare reform Bill. When will a decision be made on the proposals being considered by the Minister for Social Protection? Can the Tánaiste give a commitment that, prior to the making of a decision, the Mangan report can be discussed by the House, time permitting, before the summer recess?

The Tánaiste: There is social welfare legislation before the House next week. While it does not deal with the matters raised by Deputy O'Brien, I see no difficulty with the Mangan report being discussed at the appropriate select committee.

Deputy Willie O'Dea: We discussed it already.

The Tánaiste: I am sure the Minister for Social Protection would be glad to facilitate that. The issues raised by the Minister for Education and Skills, Deputy Quinn, are highly appropriate. The cost of child care is very high in Ireland and many families are bearing the burden of it. There is significant value in additional pre-school education, which, as the Minister said, is an issue that must be discussed and explored further. I am glad the Minister has put it on the agenda.

Deputy Mattie McGrath: On the local government Bill, I am dizzy from the spin and rumours from Government backbenchers to the effect that they have the actual document of the so-called independent commission. We have been told what the constituencies will be and who will be fixed up and sorted out all by way of leaks from Big Phil, the Minister.

An Ceann Comhairle: Sorry.

Deputy Mattie McGrath: The Minister, Deputy Hogan.

Deputy Ruairí Quinn: They are only winding Deputy McGrath up.

Deputy Bernard J. Durkan: Be careful of the Kilkenny lads.

An Ceann Comhairle: Is the local government Bill what the Deputy is looking for?

Deputy Mattie McGrath: Yes. I also want to ask about the Animal Health and Welfare Bill 2012. The Taoiseach was in Brussels yesterday doing a good job, but I was surprised that agriculture was not on the agenda. Taxation was on it and other issues but not the plight of the farming community and Ireland in general on foot of the fodder crisis which is ongoing into next year now. I am surprised nothing has been done to raise this at European level.

An Ceann Comhairle: Thank you. Two pieces of legislation, Tánaiste.

The Tánaiste: I advise Deputy McGrath to be careful about Members of the House winding him up about the local government Bill. The heads of the local government Bill are being drafted and it is expected that it will be published during the current session. The Animal Health and Welfare Bill has finished in the Seanad and is going for signature. As regards raising the fodder crisis and the great difficulties farmers face, I confess that I am surprised Deputy McGrath did not raise the matter on Leaders' Questions this morning.

Deputy Mattie McGrath: I raised it last week.

Deputy Barry Cowen: It was raised a month ago.

Deputy Bernard J. Durkan: The Construction Contracts Bill 2010 originated in the Seanad and has been referred to select committee. When is it expected that the Bill will come before the House for final consideration and when is it expected that it will be signed into law? Similarly, the Valuation (Amendment) (No. 2) Bill is on the Seanad Order Paper. When does the Tánaiste expect it to appear before the House for final consideration? The pyrite levy Bill deals with an issue which has occupied the minds of many Members and people outside the House for a long time. Can the Tánaiste set out the current anticipated timeline for its passage?

The Tánaiste: The Construction Contracts Bill is on Committee Stage and the matter is in the hands of the House itself. The Valuation (Amendment) (No. 2) Bill is on Committee Stage in the Seanad. The heads of the pyrite levy Bill were approved by Government a couple of weeks ago and I expect that we will see its publication shortly.

Deputy James Bannon: There is a great deal of public interest across the midlands on the topic of wind energy and wind turbines. It is a highly controversial issue as the Tánaiste may know from the media. There has been very little public consultation with communities on the issue. Will the EirGrid Bill that is coming before the House deal with these issues? My colleague, Deputy Penrose, is bringing forward a Bill on wind turbines. When can we expect to see these two Bills come before the House?

An Ceann Comhairle: We cannot deal with a possible Private Members' Bill, whatever about the Government Bill. When is the latter Bill due?

The Tánaiste: The initial preparatory work is underway on the EirGrid Bill and it is expected that it will be published next year. The Environment and Public Health (Wind Turbines) Bill 2012 is a Private Members' Bill which presumably will be scheduled as part of our Friday sittings.

Deputy Frank Feighan: When will the licensing of healthcare facilities Bill be published?

The Tánaiste: I do not have a date for the publication of the Bill.

Deputy Róisín Shortall: Approximately 200,000 workers are in defined-benefit pensions schemes but little or no protection exists for them in the event of insolvency. Legislation to provide protection for them has been long promised and it was expected that it would be contained in the Social Welfare and Pensions Bill which was published yesterday. Unfortunately, no provisions in this regard were included in the Bill. Can the Tánaiste tell the House when legislation will be published to provide protection for workers in the event of insolvency in a pensions scheme or of a company for which they work?

The Tánaiste: The concerns of people in defined-benefit pension schemes is an issue the Government is taking very seriously, in particular the Minister for Social Protection. The European Court of Justice recently gave judgment in a case which relates to this issue and that case must now revert to the High Court. We must await the outcome of these proceedings before we can address the legislative implications of any final decision.

Deputy Robert Troy: In light of the disturbing reports on child-care facilities raised by my party leader this morning, can the Tánaiste provide the House with a guarantee that the long-overdue priority legislation on the Children First guidelines and the child and family support agency will be dealt with in the current session? We have been promised on a number of occasions that this would be dealt with in 2012 and, then, during the first session of 2013. Last

23 May 2013

week, we asked when the matter would be dealt with and were told it would be during this session. However, the Taoiseach let it slip last week that the Children First guidelines might not be dealt with until after the summer recess. Can the Tánaiste provide a cast-iron guarantee that these two important legislative matters will be dealt with during this session as promised repeatedly by the Taoiseach, Tánaiste and Minister for Children and Youth Affairs?

The Tánaiste: There are policy issues which are being considered in relation to both Bills. In the case of the Children First Bill, the views of the joint committee on significant policy, operational and legal issues are being formulated.

Deputy Robert Troy: That was last June.

The Tánaiste: My information is that both Bills are to be dealt with this session.

Deputy Robert Troy: The Tánaiste cannot give a guarantee.

The Tánaiste: I can only give the Deputy the information I have. My book says that these Bills-----

Deputy Robert Troy: It said that in your book last year.

Deputy Timmy Dooley: He is right. The Tánaiste is the Deputy Prime Minister.

The Tánaiste: No, no. The Minister of Children and Youth Affairs is dealing with these issues in a very competent and serious way as the Deputy well knows. The information I have is that these two Bills are down for this session.

Deputy Michael McGrath: The Minister for Justice and Equality has indicated his intention to table amendments to the Personal Insolvency Act in the forthcoming Courts Bill. We have raised continually the fact that the Insolvency Service will publish on the Internet the name, address and year of birth of any person who avails of an arrangement under the service. There is a better way to do that through the credit register, which would be private. When will the Courts Bill be brought forward and will the Tánaiste consider an amendment along those lines?

The Tánaiste: The Courts Bill is on Committee Stage in the Seanad.

Deputy Michael Healy-Rae: Many subcontractors are finding it extremely difficult to get paid by main contractors. Deputy Durkan raised the matter of the Construction Contracts Bill, which is one of the slowest Bills ever to make its way through the Houses of the Oireachtas. It has left people in the lurch for a long time and is very important.

The Tánaiste: It is on Committee Stage.

Deputy Seán Crowe: There is concern about the EU-Colombia free trade agreement. My understanding is that it will be agreed by various parliaments. What is the process in respect of this House? Will it be before the House, will there be a discussion on it and what is the timescale?

The Tánaiste: I do not have a date for it but I will communicate with the Deputy.

An Ceann Comhairle: It might be better to table a parliamentary question on the matter.

Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2013: First Stage

Deputy Michael McGrath: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Central Bank and Financial Services Authority of Ireland Act 2004 to enable the Financial Services Ombudsman to investigate complaints that occurred more than six years prior to the complaint.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Deputy Michael McGrath: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Non-Use of Motor Vehicles Bill 2013: Order for Report Stage

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): I move: "That Report Stage be taken now."

Question put and agreed to.

Non-Use of Motor Vehicles Bill 2013: Report and Final Stages

Bill received for final consideration and passed.

Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013: Second Stage (Resumed)

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

Deputy Mattie McGrath: I was speaking on this last night in the context of the referendum held last year. It asked the public to give more powers to Oireachtas committees and the public

23 May 2013

said “No” for a very good reason. It was not picked up by the media at the time or anyone else that many on the Independent benches spoke against it and voted against it with good reason. I have no faith in tribunals and their cost. It was mentioned during Leaders’ Questions and the Order of Business. There was disgraceful and shocking plundering of our national assets in the amount they cost, with no prosecutions at the end. It was a pure waste of time. We need a different mechanism to hold inquiries and to hold people to account. We must be careful. I could not sit on banking inquiry committees because I have been too vocal. I was so shocked by what happened with our banks and how they got away with it. No one has been brought before the courts or charged and there has been no proper or meaningful hearing into what happened. The dogs in the street know what happened. The establishment, the last Government and this Government do not want to know what happened. They insist on making the people pay through misery, misfortune, tax, grief, trauma and shattering their dreams of having houses, educating their children, trying to make a life for themselves, paying their dues, rearing their families and living life to the full.

We met a group of pensioners from Permanent TSB, with Deputy John Halligan, who had taken retirement in good faith. They signed documents and contracts that are not worth the paper they were written on. There have been cuts of up to 58% and they say the Minister is imposing the cuts. They have planned their retirements with their families but now they cannot live. In case the Ceann Comhairle says I am straying from the Bill, I am putting in context what I want to say.

The principal themes of the Bill are that there will be five types of inquiries, fair procedures and fair play but that is not what is happening. We saw what happened with costs and expenses. Last night, I referred to what the former Senator Mark McAleese did for little money, €11,000. He produced an excellent report and it received unanimous acclaim for doing what he set out to do within time or shortly outside the time. I have worries about compellability, privilege, immunity and involvement of the High Court. When it goes down the quays, it gets lost in a logjam and it becomes mighty expensive. There is no end to the costs.

Inquiries under sections 8, 9 and 10 relate to officeholders or people directly accountable to the Dáil under the Constitution. The Oireachtas has the power to remove the President, the Comptroller and Auditor General or judges for serious misconduct. The Bill provides that, if this were to occur, in accordance with the Constitution the mechanism of a parliamentary inquiry, as provided for under the Bill, would be employed. No clear processes for such removal currently exist. I welcome that because our Judiciary has served us well. The Uachtarán and iar-Uachtarán have served us well. Our current Uachtarán serves us very well and is making some very right soundings if he is listened to as he should be.

We all remember the Abbeylara inquiry, which was found to have contravened constitutional principles regarding processes. One should hear both sides without bias. The Bill provides a wide range of measures to ensure the inquiries are conducted according to fair procedures. I heard the British inquiry into Google and I was interested in it because it affects this country. I was interested in the manner of questioning, the evasion of answers and the words used by the chairperson of the committee. It is in a different House. I am not a standard bearer for the former Senator, Minister of State and Deputy, Ivor Callely, but I think we rushed to judgment in that committee. He did not get fair process and he was proved right in the courts. I may be corrected on that but I think I am right.

Since the last Government, there has been a change in the committees. I was a member of

three committees in the last Dáil and I enjoyed them. However, these committees are too big and unwieldy and there is a massive Government majority. In the previous Dáil, there was a report into the Lost at Sea fishing tragedies. There was coercion from the Government party and I was put under pressure even though I was without the Whip. It was still being waved around the room and I was encouraged to vote a certain way. I have direct experience of committees being dictated to by the Government of the day. I have personal experience of it, as do all Members if they are honest. It is very difficult for committees to investigate themselves. It is similar to the situation of the Minister for Justice and Equality, Deputy Shatter, the Garda Commissioner and the investigation into the controversy over penalty points. It is a case of the gardaí investigating the gardaí and it does not sit right. I could not investigate Deputy Healy Rae and he would not want to investigate me or our peers. There must be transparency. That is why I totally oppose the abolition of the Seanad. It should be reformed. A creative Bill has been proposed by Senator Quinn and Deputy Ross and others. We need that second House to oversee and to marshal the wisdom in it. It needs a broader electorate, elected by the people.

I hate going back to it but Deputy Buttimer was here last night and made reference to the proceedings in the Joint Committee on Health and Children from Friday to Tuesday and last January. The inquiry was a sham in its setup, the witnesses, the witnesses that were not brought in and the way it was conducted. I mean no disrespect to the Chairman but it was farcical. I have sent out press statements to that effect and said it in the committee. The Minister for Health came before us last Friday and I thought he and his three officials would be there for a two-hour session. He read a 12 minute script and disappeared. There were no questions. The Minister of State turned up on Tuesday evening but I did not attend because I was in this House. I did not mind missing it but he came in to tell us what was happening. The Chairman issued a closing statement saying there had been fair and balanced reporting, appraisal, discussion and engagement and respect for all comments made by all of the guests who had appeared before the committee. I thank the guests for their attendance. I cannot thank the ones who did not appear before the committee because they were not invited, although they were willing to attend. Women hurt by abortion should have appeared before the committee, but they could not tell their story. It was not wanted. However, the Chairman then spoke on Newstalk radio station yesterday morning and said the Government was moving ahead with the legislation. He totally contradicted his closing statement. He said the Bill was moving ahead and would be law before the summer. That makes me wonder.

Many people attended the hearings and many made written submissions. However, the timeline for written submissions was far too short. In January it was still the Christmas season and the notice was not in the newspapers for long enough. It was rushed with indecent haste. That was a perfect example of a delicate and difficult issue, which has been facing us for 30 years. I accept it is a very difficult issue, on which I have my opinions and I am entitled to have them. I respect the opinions of other Members of the House. We are all elected in the same way and must serve the public which is very conflicted on this issue. The people who appeared before the committee were experts in gynaecology, psychology, medicine and so forth, but those who have been affected and traumatised by what happened to them were not allowed to appear before it. We just closed off that view.

Another group due to come here today holds the opposite view. I will not get to meet them, but they are people who have lost babies through miscarriage and so forth. They wanted to appear before the committee, but they must go to the AV room today. That is not right. Why is there a rush? We would not mind sitting for two weeks in August, if necessary. There is no big

23 May 2013

rush. After all, the Taoiseach promised that this issue would not be introduced under his watch. If we are to have proper committees, we should respect the ones we already have. There was an opportunity in that case to demonstrate how effective they could be.

The attendance at that committee was tremendous. It sat crazy hours, until 8.30 p.m. on the Friday, Monday and Tuesday. Again, that was too much, too fast. One could not take it all in. I can only speak for myself, but I have limited capacity and I am not an expert. There was too much information thrown at the committee, too much to comprehend in just one weekend. Again, why was there a rush? The Constitutional Convention is doing its work and this Bill was being drafted to be ready to be put before the House this week. I am sure the Chairman of the committee, Deputy Jerry Buttimer, and the powers-that-be knew this. We should have been cognisant of being watched and that it would be telling testimony when discussing the Bill.

There are lessons to be learned and I do not have all of the answers. I welcome the Bill, as an effort, but it has many shortcomings. We have to be cognisant of the courts, but we must also bear in mind that this is the Oireachtas which passes legislation and it is not compelled by any court to change or dance to its tune. That has been proved here time and again, most recently in the Supreme Court judgment last November in the middle of the referendum campaign. Five of the judges issued a unanimous opinion, with very harsh words about how the Government behaved in that referendum campaign and how it had misappropriated €1.1 million of the €3 million the Oireachtas had voted the previous March to run the referendum. We have an independent Referendum Commission that was established to do a job and while I might not agree with everything it does, it should be let do it. Why should the Government have taken more than one third of the money and spent it on advertisements and booklets which it had to withdraw? There has been no debate in the House or in any committee about this.

When it suited the Government to return to a 1992 judgment of the Supreme Court, it did so and gave it as a reason for the legislation, but the judgment in November was the most recent one. In addition, that judgment was not clear and unanimous, as I understand it, and no psychiatric reports were given to the court on Miss X. Contrast this with the lack of respect for what the Supreme Court had ruled in November. When that judgment was made, the Minister for Justice and Equality was interviewed by Sean O'Rourke and constantly referred back to the fact that the High Court had said it was okay - I challenged him about this on the Six One News - and had dismissed the challenge. The Supreme Court had upheld the challenge, but the Minister, a practising lawyer who knows more about the courts than I do, kept referring to the other decision. We have ignored it.

I made reference last night to the reform of the Companies Acts, which is badly needed and has been in gestation for 20 years. However, the Bill has 1,442 pages. How could anybody comprehend it, including a business person who is struggling with a small farm or a small shop? Big business will be able to hire experts to read and examine it. In addition, one must pay €100 for it. I could buy ten of Deputy Shane Ross's bestsellers for that and get better reading because I could read them in modules. However, one could not find anything in that Bill. I am not castigating the people who drafted it, but it is too much. It has to be condensed. Members could not get a copy because we were told it was too expensive to print it. One would have blurred vision in reading it on screen; therefore, I did not read all of it. As a small businessman, I would like to do so, but I could not comprehend it.

We have to get back to basics, act on our mandate and do what we are elected to do. We should have committees and processes that are accountable. I do not have all of the answers

and look forward to the debate on this Bill. I hope amendments will be accepted. However, when the members of the Government were in opposition, they profoundly objected to the use of the guillotine for the four years that I sat on the other side of the House. Now, they are like a team on the last sprint leg of a relay race and have gone mad in their use of the guillotine. Everything is guillotined. I am told next week's schedule is colossal. The House will be sitting until 10 p.m. and 11 p.m. and will sit on Friday, with the threat that if it does not, we will be brought back in the week after the bank holiday weekend. Rushed Bills such as this and knee-jerk reactions do not make good law. Fair play is fine play in my book. However, I do not wish to be judge and jury of my peers. That is wrong. I, therefore, ask the Minister to look again at this, go back to the drawing board and perhaps look at the experience in other parliaments.

Deputy Derek Nolan: I welcome publication of the Bill and the early opportunity to discuss it in the Dáil. It is very important. Some of the discussion in the House has been about the relevance of Parliament and a number of Deputies have questioned our ability to conduct inquiries. In fact, it happens every week in this Parliament at the Committee of Public Accounts and various other committees, where we inquire and put questions to people, get information and compile reports. We do this every week the Dáil sits, yet Members are saying they would be incapable of doing it, that they would be biased and that they would be incapable of being relevant or a part of this. That is a contradiction.

During the last general election campaign when people were so cognisant of the failings of politics and the institutions of the State, many of us tried to put together a platform that would increase the Parliament's relevance, by making the scrutiny of different legislative functions, the organisations of the State and issues more relevant and by giving power to the Dáil and the Seanad to serve that function. Now, when we bring forward legislation which will make inquiry forums standard, which is what the American and most European democracies have as a standard, Members are saying they cannot handle it because they will be biased and incapable of doing it. Many of the contributions have been flawed. Members say they do not wish to be judge and jury or to make findings against their peers. That means they have not read the Bill. The Bill has been drafted in conformity with the *Abbeylara* judgment. There was an attempt to overturn that judgment in the referendum held in 2011, but as the people rejected it, we are still bound by that ruling. It specifically states the Oireachtas cannot make adverse findings against a person's good name as that is not the role of the Oireachtas. The proposals before the Dáil are different.

I was a member of the sub-group of the Committee of Public Accounts that drafted the report on an inquiry into the banking sector. We had a great deal of engagement with senior counsel and members of the parliamentary research team in the Dáil when we went through the different legal options. The inquire, record and report model, the first model proposed in the Bill, is very different from what is being said in ill-informed contributions in the House. What it says is that, as a parliamentarian, one can inquire, which means one can ask questions, record responses and report what was said. It does not state one can make a judgment, cast aspersions and destroy someone's name, or otherwise. The model proposed in the legislation is very restrictive.

In many ways, I very much regret that the referendum held in 2011 was not passed because it would have allowed for a much broader type of inquiry into any topic, in line with fair procedures. However, the people, in their wisdom, voted against it. I can understand the reasons for its defeat but still believe that, after we have tested the new model with a number of inquiries, we should return to the people to ask for more powers and demonstrate that we can hold a cred-

ible, independent, non-partisan inquiry. However, we must prove that we are capable of acting in the way I have described.

The second inquiry model which we discussed at meetings of the Committee of Public Accounts and which is also covered in the legislation pertains to an inquiry that has a legislative function. The Oireachtas is entitled to inquire into matters within its remit. Legislation is clearly within our remit and we should be entitled to investigate and make findings to inform us in our role as legislators. Members have stated in the House that they do not want to be involved in inquiries. If, however, an inquiry is very useful to one's function as a legislator, one should surely be saying one is capable of and should be carrying out inquiries. There has been much ill-informed and ill-thought-out commentary on this matter.

There are sections in the Bill that provide for fair procedures. The main reason people were very uncomfortable with the referendum was they were uncertain that the language proposed to be incorporated into the Constitution would establish a legal right to fair procedures. Sections 14 to 25, inclusive, which pertain to the impugning of a person's good name, privileges for witnesses, immunities, guidelines for procedures and the role of the chairman, address that issue and establish fair procedures in statute. Given that this has been such a controversial topic, in that a referendum has been rejected, legislative scrutiny needs to be particularly strong. Having a very strong Committee Stage will be particularly important.

One of the issues the Bill will facilitate, which issue has been mentioned, is the holding of a banking inquiry. One could be forgiven for calling the Bill the banking inquiries Bill because it has been so intrinsically linked with the banking inquiry under discussion. Time may have passed since the bank guarantee in 2008, the collapse of the property sector, the doing of so much damage to the country because of debt taken on to bail out the banking sector, the mess that was Anglo Irish Bank and the promissory notes debacle that we just managed to get ourselves out of, but we must not forget that we may not have investigated and sorted out all of the events that led to these problems. I have often said inside and outside this Chamber that this term of government should be used for a number of tasks, the most important of which is to ensure that what got the country into such a bad place, thereby affecting its people so harshly through unemployment, debt and all of the social, medical and psychological consequences attached thereto, will not happen again. In doing so, we must ensure we not only reform the political system but also that what happened will never happen again. I refer to what occurred in the banking system, land speculation and rampant property speculation having become the dominant hegemonic model of the economy. There are a number of questions that a banking inquiry, in particular, would allow us to address.

Consider the role of the Irish Financial Services Regulatory Authority. Why was it so deferential when regulating financial services? Why was the system closer to a hand-in-hand system rather than an adversarial one, which is what one would expect from a regulator? One would not expect a softly softly approach but an approach stipulating rules that must be followed. Why was the Central Bank not aware of the risks? Why did it not have the knowledge, capability and power to analyse what was occurring in the economy, including the property sector, and the banks' balance sheets? Why was it not able to see that there was a problem? Why did we believe the problem with the banks in 2008 was one of liquidity rather than solvency? Why did we make that mistake? Why was the expertise not available to spot it? What was the role of the Department of Finance? We need to find answers to these questions. What was the attitude in the Department of Finance? Did we have the same issue with deferential leanings towards the banking sector? Was it that the banking sector could do no wrong because it was making so

much money? Was the relationship too close? Was the expertise in the Department of Finance sufficient for an analysis of what happened?

We need to examine the crisis management of the former Government. What was going through the minds of our leaders, both political leaders and leaders in the Civil Service, before the bank guarantee? We have heard that in early 2008 a group was set up to think about the banking crisis and examine balance sheets, share prices, etc., yet a decision was not made on the banking crisis until September 2008. Apparently, we were on notice for so much time regarding the potential eventualities. Why did we not see what was happening? We need to find out about crisis management after the guarantee. There was a significant gap between the giving of the guarantee and the nationalisation of Anglo Irish Bank. Was this wise? Was it wise to have a bank that was, in many aspects, economically challenged and capable of causing so much damage to the economy left out of State hands during the window in question? The bank's management could have been involved in a practice that could have put the State's interests at risk. Why was this allowed to happen?

What banking culture could have caused the collapse of the economic model so violently in the first instance? Why were the banks lending so much money? Why was property the only issue? What was the role of external auditors who were supposed to be auditing the banks effectively? There are many matters to be examined. This Bill will facilitate that process. I very much commend it and hope it is passed and will soon be on the Statute Book.

Deputy Robert Dowds: Like Deputy Derek Nolan, I welcome the Bill. It is a great pity that the inquiries referendum was voted down, largely because of a well aimed bomb fired at the right time by some people in the legal field. If we had not been discussing the inquiry proposal in conjunction with discussing the Presidential election campaign, people would have seen the value of making the proposed change to the Constitution.

I listened to two Opposition speeches in detail, namely, those of Deputies Shane Ross and Mattie McGrath. I found their contributions disappointing and depressing, primarily because they were both saying this was something we could not do and that politicians were not really capable of carrying out inquiries honestly. If we note what occurs in other countries, we must say this is something we must do and ought to do. One reason the country ended up in such a difficult set of circumstances was that we did not have scrutiny of the kind afforded by an inquiry.

There are two factors that greatly damaged our parliamentary democracy. One was that one party, Fianna Fáil, had held power for far too long and had been corrupted in the process. That is a danger for any party that holds power for too long. Second, there was insufficient parliamentary scrutiny, both at committee level and in the House, which had added greatly to the problems experienced. How useful it would have been during the crazier days of the Celtic tiger to have had the banking regulator scrutinised in detail before the system really went off the rails. That sort of thing points to the need for good working committees that can really inquire into and get to the bottom of issues.

It is worth remembering our experience of tribunals and committee investigations, and the contrast between them. The Mahon tribunal sat for 917 days of public hearings, with an estimated cost of €247 million. All that was recovered by Revenue was €34.5 million. There was a huge net loss to the State. The Moriarty tribunal gained nothing for the State, I understand, with an estimated cost of €100 million.

23 May 2013

One can contrast that with the DIRT inquiry in the 1990s. A committee of the House examined the operations of banks in regard to DIRT. It sat for a total of 26 days, cost approximately £3 million and generated £446 million for the State. Not every inquiry will generate money for the State, but it is a very good flag for how committees of the House can operate to the best of their ability. We need to learn from that experience, which was very good, and that of other countries. There is no reason we cannot.

The main inquiry which will be on people's minds is a banking inquiry. I presume it would be the first practical test of the Bill after it is passed. It is worth reminding people of the types of inquiry outlined in the Bill. They are to make provision for an inquiry limited to recording and reporting evidence and making findings of uncontested fact or findings of relevant misbehaviour; to make provision for an inquiry relating to the exercise of any one or more legislative functions, including whether there is a need for new legislation; to make provision for an inquiry in relation to the removal of certain officeholders as provided for in the Constitution or in other legislation; to provide for power of inquiry relating to the conduct of a Member of either House of the Oireachtas; and to give Dáil Éireann the power to undertake an inquiry into the conduct of a current officeholder, senior civil servant or CEO of a public body who was liable to be held to account by Dáil Éireann by virtue of the terms of his or her contract or statutory appointment. Had we had those powers in operation in the first decade of 21st century, this country would be in a much better place. For that reason, we have to be supportive of the Bill.

I appreciate the compellability section. It is important. I understand people will have the right to go to the High Court if they wish to contest something. If after the Bill is passed people traipse to the High Court, it will probably be an indication of its effectiveness. Why would they bother doing so unless they felt they had something to hide?

The Seanad is likely to be abolished. Therefore, it is really important that the powers of individual Deputies and committees are strengthened. If we do not have a second House it is very important that more examination of legislation takes place within this House. In that regard, it is important that we have Dáil committees with real and substantial powers and backbenchers with greater powers.

There is a need to examine the operation of the Whip system. There is a case, for example, for a free vote on Bills which do not have serious financial implications. Clearly, if one is a Government backbencher it is understandable why one is put under the hammer to support measures to deal with the financing of the State, although it is difficult at times to support them. I support the idea of a very strong Whip in that situation, but a case can be made to allow a weakening of the Whip on Bills without serious financial implications.

We have moved towards reform, in terms of having Friday sittings for Private Members' Bills. I look forward to a time when significant numbers of such Bills can be enacted. A free vote would be appropriate on many of them.

Debate adjourned.

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Pat Deering -

the implications of proposed cuts to Carlow regional youth work services;

(2) Deputy Seán Conlan -

the need to protect the future viability of the Collegiate School, Monaghan;

(3) Deputy Patrick Nulty -

the funding for respite care and support for families with children who have intellectual disabilities;

(4) Deputy Thomas P. Broughan -

the need to address the shortage of social housing provision in the Dublin North Central area of Dublin City Council and the Howth-Malahide area of Fingal County Council;

(5) Deputy Dan Neville -

the appointment of 477 mental health and suicide prevention staff provided for in the allocation of €35 million in 2013;

(6) Deputy Paschal Donohoe -

the need to provide an update on the status of negotiations between the OPW and the Irish Insurance Federation regarding insurance cover for homes in flood risk areas;

(7) Deputy Brian Stanley -

the provision of funding for the N80, Portlaoise orbital route, County Laois;

(8) Deputy Shane Ross -

the need to provide adequate funding for St. Mary's NS, Lamb's Cross, Sandyford, County Dublin;

(9) Deputies Ann Phelan and Robert Dowds -

the effective rate of corporation tax paid by multinational corporations here;

(10) Deputy Noel Harrington -

the changes in criteria for special needs assistants to children with disabilities in mainstream classes;

(11) Deputy Seán Crowe -

the industrial dispute and problems at Shanganagh water treatment plant, Dublin;

(12) Deputies Thomas Pringle, Mick Wallace and Clare Daly -

the TSB pension scheme;

23 May 2013

(13) Deputy Catherine Byrne - the distribution of leaflets, relating to the protection of life during pregnancy Bill, displaying photographs of public representatives;

(14) Deputy Seán Kyne -

the need to allocate sufficient moneys to Comhar na nOileáin Teoranta;

(15) Deputy Seán Ó Feargháil -

the need to ensure that Defence Forces personnel serving in Lebanon have kit appropriate to the climate and the location;

and (16) Deputy Billy Kelleher -

the recent meeting that the Taoiseach had with representatives of tobacco manufacturers.

The matters raised by Deputies Seán Ó Feargháil, Ann Phelan and Robert Dowds, Thomas Pringle, Mick Wallace and Clare Daly and Seán Conlan have been selected for discussion.

Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013: Second Stage (Resumed)

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

Deputy Thomas Pringle: I welcome the opportunity to contribute to the debate on the Bill. It has been heralded as being able to facilitate a bank inquiry by a committee of the Houses and to inquire into the banking collapse which took place over five years ago. While it might be necessary and useful to inquire into what happened in the lead up to the banking collapse, I wonder what value it would have. Everybody knows about what happened and the outcome. Most people know what needs to be done in the future. I do not know whether an inquiry would arrive at a solution.

A lot of what happened during the banking collapse and the bank guarantee was a result of the subservience of politicians to senior bankers in giving them everything they want. I do not know whether an inquiry would improve that situation. We need politicians who are willing to stand up to bankers as easily as they stand up to people on social welfare and those dependent on the State for income and support. That would go a long way to making sure that we did not again have the type of collapse we had in the past.

There is a need for the Oireachtas to be able to inquire into issues of public importance. From that point of view, a legislative basis is required, in particular in regard to the Abbeylara judgment. I hope the Bill will provide a sufficient basis to allow inquiries to take place in order that Oireachtas committees can inquire into matters of important public concern in a timely way, which is vitally important.

While we have not had the basis to inquire into the banking system, five years on it is not worth investigating.

12 o'clock

Oireachtas committees should be able to respond in a timely way to matters of serious public concern by establishing inquiries to get to their root causes and offer scope for recommendations to strengthen the system in order to ensure the same issues cannot recur.

I have a number of specific concerns about the legislation. Section 12 provides that the establishment of an inquiry will require the approval of the Dáil. One of the reasons that several of my Independent colleagues and I were opposed to the 2011 referendum was the potential we had identified in that proposal for political abuse of an inquiry system. The referendum was subsequently rejected by the people. The requirement for approval by the Dáil in the Bill before us suggests the Government is seeking to retain control over Oireachtas inquiries. That is not a good sign in terms of the effectiveness of an inquiry system to be established under the legislation. Serious consideration should be given on Committee Stage to allowing for a system whereby a smaller number of Dáil Members could approve an inquiry. In Germany, for example, one quarter of the Members of the Bundestag can authorise an inquiry. There must be scope for a majority of the Opposition or a minority of all Members of the House to be able to vote to have an inquiry established. That is very important in terms of ensuring the Government is held to account and preventing the inquiries system from being entirely under the control of the Government of the day.

Other speakers have referred to the Whip system in the context of these proposals. A provision whereby the Whip would not apply in votes on Oireachtas inquiries would go some way towards ensuring we had an effective system. A requirement, for instance, that one third of Deputies must approve an inquiry would still, under the current make-up of the House, require a number of Government Members to vote in favour. That would only work in practice if the Whip was not applied. Otherwise, there is unlikely to be any inquiry into controversial matters which may cause discomfort for the Government. One of the types of inquiry provided for in the Bill will see Oireachtas committees inquiring into the actions of officeholders. The only officeholders in this House are on the Government side. We must have a system that allows inquiries to get past the first hurdle - the approval of Dáil Éireann for their establishment. I hope this issue will be given careful consideration on Committee Stage.

Another concern I have regarding the legislation relates to the issue of bias. This is an issue that will probably be tested in the courts very soon after the enactment of the Bill and there may, in fact, be no way of getting around it. When one considers what bias actually means, particularly in the context of the banking inquiry which the Bill is intended to facilitate, it is clear that there is nobody in this House who could not be accused of being biased. Practically everybody has spoken about what went wrong and laid the blame at the feet of bankers and the Government politicians of the day. How then could any of us satisfy a charge of bias in respect of an inquiry into events in the banking system? It is difficult to see how that problem can be overcome in the legislation. I envisage that as soon as the banking inquiry is established, assuming it is the first inquiry set up under the legislation, there will be a trip to the High Court to decide the issue of bias. It is something that will have to be tested in order that precedents are established. That is probably an inevitable outcome of the legislation and something we will have to live with and work through. The courts will have to make a decision and set a precedent on issues such as bias and how inquiries can be conducted without impinging on people's good name. These issues will be decided outside the House. In fairness, it is probably not possible for them to be decided entirely within the legislation.

An issue of particular concern to me in the context of these proposals arises partly from my experience as Chairman of the Select Committee on Members' Interests of Dáil Éireann. Spe-

cifically, there does not seem to be any provision in the Bill to allow for an Oireachtas committee actively to investigate the circumstances of an issue into which it wishes to inquire. What I mean by investigate is the capacity, for example, to appoint an investigative officer whose role will be to gather evidence and present it in a format the committee can use in conducting its inquiries. This is something we have come up against on numerous occasions at the select committee where complaints are made about specific actions taken by particular Members. The committee is made up of four or five Deputies who, although they have some expertise, do not have sufficient to tease out the issues involved and test the evidence presented by the complainant. All we can do is write to the person making the complaint requesting him or her to furnish us with further information and evidence on the matter and write to the subject of the complaint asking him or her to do the same. We do not really have a way of testing whether what one side or the other is saying is correct, other than what our own intuition might indicate.

By contrast, the Standards in Public Office Commission has the capacity, under the relevant legislation, to appoint investigative officers and actively investigate a complaint. The investigative officer will gather evidence and present it to the commission. It could be argued that it is the role of the Oireachtas committee, as envisaged in the Bill, to gather evidence and investigate it. The reality, however, is that a committee must have the means to do so. That aspect is lacking in the legislation and should be revisited on Committee Stage. I cannot see these inquiries being very effective if committees do not have the power to appoint an investigative officer. I intend to bring forward amendments in this regard which would ensure committees would have the power to gather and interpret evidence in such a way that they would have a real chance of being effective in their work.

This legislation is necessary to ensure committees can work effectively in investigating matters of public interest. There will be a period following its enactment when the legislation will be tested in the courts, which will feed into the operation of the investigations system thereafter. It is a necessary evil of these proposals and will cause frustrating delays in the initial stages. I hope the Minister will consider amending section 12 to remove the requirement that the establishment of any inquiry will require the approval of a majority of Dáil Members. I ask him also to examine the powers committees will have to gather evidence and to consider affording them the capacity to appoint an investigative officer to aid them in their work.

Deputy Frank Feighan: I propose to share time with Deputies Anthony Lawlor and Simon Harris.

An Leas-Cheann Comhairle: That is agreed.

Deputy Frank Feighan: I very much welcome the Bill which establishes a comprehensive statutory framework for an Oireachtas inquiries system. We must be able to conduct inquiries consistent with the parameters set down by the Supreme Court in the *Abbeylara* case. I regret that in a referendum a few years ago the people did not give the Oireachtas the right to inquire into such matters but that was their view and choice and I respect it. People at Fine Gael branch meetings, and I am sure Labour Party meetings too, members of Government and people on the street want us to inquire into the banking crisis. We need the tools and procedures to do this. We need to work together to find the facts of what has happened. As a politician I would be delighted, relieved and grateful if we did find exactly what happened that brought our country to economic ruin. Those facts must be put into the public domain and investigated. We must learn lessons. The inquiry should not damage any individual's character. Some politicians will use these occasions, not to find the facts or get at the truth or do the right thing but to do a bit

of show-boating to show how great they are. An inquiry must be open, fair and balanced but the witnesses must be protected too. I am not very familiar with court proceedings but they are technical and costly and sometimes people find it very difficult to understand the legal jargon. Inquiries in this House would connect more closely with members of the public.

Provisions for inquiries relating to the conduct of a Member of the House in his capacity as a Member, into the removal of an officeholder such as a judge of the Supreme or High Courts and others, and to hold the Government, and any person who is liable to Dáil scrutiny by contract or statutory appointment, to account are welcome. This Government, of which I am part, must be held to account but this must happen in a fair and reasonable way. Maybe we should have an inquiry into what is happening in our country where there seems to be a race to the bottom. Numerous people use local radio stations, Twitter and local newspapers to make some of the most outrageous, scandalous and untruthful allegations about the Government and me. It would not be reasonable for me to bring another Member of this House to the High Court or bring an action against him. Everyone is entitled to his good name. I have seen my good name taken away by other Members willy-nilly in ways that have been shown to be untrue but I cannot do anything about it. The local media does not want to hear about it because that does not sell newspapers. Maybe this is the time to have an open debate. If somebody says something untrue at a public meeting maybe I should take action in the High Court but I will not because I have enough to be doing. It would deflect from my work as a politician for my constituents, and as a member of Government, to get this country working again. As politicians we have no protection. Maybe some day I will do something about all that was said. I do not mind if the allegations are true. If they are true that is fine. A lot of people are angry and rightly so, and I am angry but everybody who is in politics or public life, or any job, has their name and their right to their good name should be protected. There are Members of this House who do not acknowledge that right and have behaved in a manner that is not fitting for elected officeholders.

Deputy Anthony Lawlor: I welcome the opportunity to speak on this Bill. It originates in the *Abbeylara* judgment in the Supreme Court in 2002. If there is criticism it should be levelled at the previous Administration which did nothing about this in the past ten years. The public was clamouring for the politicians to do something about that judgment. When I and others campaigned before the last election people asked us to be legislators and to inquire into events but sadly we could not do so because the *Abbeylara* judgment prevented an inquiry. The Oireachtas committee was trying to get to the truth of that event. A tribunal chaired by Mr. Justice Robert Barr took place after that and lasted four years. The Carthy family welcomed the report but the gardaí disapproved of it. I understand that the then Commissioner did not apologise publicly to the Carthy family.

The Oireachtas sub-committee to find a quick and truthful answer to what happened in *Abbeylara* and the Barr tribunal spent four years examining the event and reached the same conclusions as the committee would have reached. There have been many tribunals, including the Moriarty and Mahon tribunals. The Moriarty tribunal will cost approximately €100 million, the Mahon approximately €250 million. Who is winning? The tribunals are a scam for the legal profession. We are duty bound to inquire into events that might cause public concern. Everyone is talking about an inquiry into the banks but there are other incidents into which we as public representatives should be allowed to inquire. That is why I welcome this Bill. It is the first step. People say there may be cases brought against us in the High Court and so on but this is the first step towards giving us as elected representatives of the people the power to inquire into incidents of public concern. The cost involved in our inquiry would be lower than

that of the tribunals.

At the time of the referendum public confidence in politicians was at an all-time low because the public had lost faith in politicians. The previous Administration must take responsibility for this. We are trying to ensure that what we put in place will give the public confidence that we are capable of conducting an inquiry in a proper and honest manner. As I said earlier, people want us to be legislators and also inquire into issues of public concern. Will the Minister examine how these inquiries are conducted in other parliaments? The UK's Inquiries Act 2005 has a similar set-up to this Bill but there are problems with it as the Finucane family will not participate in the inquiry into the death of Pat Finucane. We need to take the positive elements out of this legislation, as well as the strong points out of the royal commission set-up in Australia, New Zealand and Canada and the congressional committee system in the US. The positive elements from other jurisdictions need to be brought into this legislation. We need to get this Bill passed as quickly as possible so that if the courts find flaws in it, we can amend the legislation promptly. We must ensure that we as legislators are allowed to inquire into issues of public concern.

Deputy Simon Harris: I welcome the opportunity to speak on the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 and commend the Minister for Public Expenditure and Reform for introducing it to the House.

I share Deputy Lawlor's evaluation of the background to this legislation. When we were canvassing in the last general election, public representatives and candidates from all parties and none found there was a great desire for answers, increased accountability and transparency, as well as for a Parliament that could get to the bottom of issues. We were asked time and again on doorsteps across Wicklow when were we going to investigate the banks and the bank guarantee. Then, as Deputy Lawlor said, we had a referendum on inquiries on which the people made their decision.

This new Bill comes back to put in place on a statutory and legislative footing a mechanism for the Parliament to have reporting inquiries in an efficient manner which can come up with an overview of various issues of the day. This is just one of three Bills that will play a part in increasing the transparency and accountability of this State, the others being the extension of the Freedom of Information Act and the whistleblowers legislation, which is badly needed.

I am a little cynical about the past tribunals of inquiry. I do not believe it was any mistake they were set up in the past. Perhaps they were set up by people who did not want answers to emerge in a quick or a timely fashion. Perhaps they were set up by people who did not want anyone held to account. After all the years and after all the hundreds of millions of euro spent on them, have we learned anything that we did not suspect before? Has anyone been held to account after the Mahon or Moriarty tribunals' findings? That is the real frustration felt by people. After spending hundreds of millions of euro on tribunals, the only people who seemed to benefit were those in the legal profession.

This inquiries Bill has to be about ensuring that we, the elected representatives of the people, can represent our people and put the questions on the issues of the day in an inquiry type format.

The need for a banking inquiry is very real. There is much pub-chatter with people saying they know what went wrong with the banks and have we not had all these investigations already. The Committee of Public Accounts produced a comprehensive report outlining the

framework it saw such an inquiry taking. More importantly, the report also set out the questions that remain unanswered or, if they have been answered, require further examination. Will the Minister give serious consideration to these questions in the establishment of any banking inquiry? Some of the issues the committee identified are:

What was the precise sequence of events in the period of weeks leading up to the guarantee?

To what extent was there an adequate evaluation of alternatives to the bank guarantee carried out by Government?

Was the guarantee the optimal policy choice given the alternatives available?

To what extent was the scope of the guarantee the optimal policy decision given the other options available to the Government?

What role, if any, was played by the Cabinet in the run up to the events of the [now infamous] night of 29 September 2008?

To what extent do written records exist of the events leading up to the guarantee, and the guarantee itself?

[Interestingly] Who were the external advisors (formal and informal) [both on the payroll and off the payroll who had the ear of the decision makers and the Government of the day] during the crisis management period and what were their roles?

Regarding the recapitalisation of the banks, the committee's report asked the following questions:

To what extent was the recapitalisation of the banks the optimal policy option given the alternative policies available to the Government?

To what extent have the necessary personnel changes to the management and boards of our banks taken place to ensure an appropriate mix of people with different skills?

What caused the failures in corporate governance in Irish banks?

To what extent was the over-concentration of property-related loans deemed a risk factor by the banks?

Why did banks and other financial institutions deviate significantly from well-established credit policies?

The committee called for an inquiry to look at the role of the Irish Financial Services Regulatory Authority, IFSRA, in the crisis. The report asked:

Why was the tone of enforcement so deferential?

Why did IFSRA fail to bring enforcement action in respect of breaches of regulation?

What was the nature of the information conveyed by IFSRA to the Minister and Department of Finance and [the] Central Bank about the bank lending?

The committee report stated an inquiry needed to examine the role of the Department of

Finance in general:

...did the Department of Finance...play a...significant [enough] role in financial stability issues?

What...advice and analysis [was] prepared by the Department of Finance on fiscal and monetary effects of property incentives?

Did the Department of Finance prepare specific reports to Government on the problems in the banks and the potential impact on the economy?

What was the role of the Department of Finance in managing the [emerging] crisis?

The committee stated we need to look at the Oireachtas as a collective. Did it do enough or have enough ability to provide oversight and scrutinise the guarantee? Was the tone in here too deferential as well?

Very importantly, an inquiry needs to look at the role of external auditors in the crisis. I do not believe we have heard nearly enough on this issue. The report asked:

How does the fact that shareholder investment was virtually wiped out in all our banks equate with clear audit reports in the years from 2003 onwards?

To what extent did the work of the external auditors give comfort to the external regulators of banks in relation to banks' business models and lending practices? [Was the Financial Regulator assuming a clean bill of health from the auditors meant all was okay and not enough attention was applied?]

What were the management letters of auditors telling senior management in the years from 2003 onwards?

Were concerns relating to bank governance raised at any stage, especially in Anglo and Irish Nationwide?

Were audit contracts the subject of rotation or change at these financial institutions?

What role did behavioural factors (including [what is commonly referred to as] group-think and the lack of acceptance of divergent views) play in the crisis?

No one can tell us the banking crisis is behind us, that we have examined all of the issues in full and that we have the reports we need. As we move forward as a nation, we still need to learn an awful lot from what happened over the past number of years. We are still paying a heavy price for it. I believe this legislation will provide the framework and the ability for this House, through whatever mechanisms the Government views appropriate, to have finally a real banking inquiry that can endeavour to answer some of those questions.

Deputy Michael Healy-Rae: I thank the Technical Group for allowing me some of its speaking time to contribute on the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013. This is an important Bill in the context of what has happened over the years down at the Four Courts with the massive toll and burden put on our already struggling taxpayers when they had to pay massive sums of money for tribunals and investigations that at the end of the day yielded very little in return. There have to be better ways of dealing with our business. Of course, there must be oversight, as well as investigations into wrongdoing, but we

have to use the structures already in place to our better advantage.

I sit on the Joint Committee on Public Service Oversight and Petitions. I would like to take the opportunity to compliment all of the people who work on that committee, our excellent Chairman and our former and original Chairman who I was sorry to see have to step down over an internal party issue. He was a great Chairman and very workmanlike, as is our new Chairman. This committee is fulfilling a proper role. Using politicians for a purpose such as the committee's is sensible because the politicians are there, they are being paid anyway and it is important we use systems and structures anyway and every way.

Mr. Justice Murray had an important viewpoint on this. He stated that he did not see any reason the Oireachtas could not conduct inquiries of the nature that it has for practical purposes traditionally done, including inquiries into matters concerning competency and efficiency in departmental or public administration as well as such matters as those concerning the proper or effective implementation of policy and to make findings accordingly. He further stated that if a particular officeholder such as the chief executive officer of a semi-State body is by virtue of his appointment, whether by statute or contract, answerable to the Houses of the Oireachtas, different considerations arise. He did not consider that the order proposed to be made by his court affected such a situation. The difficulty for current Oireachtas committees is knowing how far this limitation goes. Recommendations were made following the *Abbeylara* case, which was important.

The Bill is structured in Parts. I am also worried about bias. The Minister stated section 18 prevents a Member from sitting on a committee where a perception of bias might arise. Bias and conflicts of interest happen on a regular basis. For instance, last week I raised the issue of the protection of rural post offices in the House. One of the first things I thought I should say was that I am a postmaster of a small post office. If I was prohibited from speaking in the House about issues in which I might have a conflict of interest because of my other work or activities, that would be a major problem. County councillors face a similar issue. A Member who is a farmer could be accused if he was debating restructuring the single farm payment scheme of trying to look after himself, which would be grossly untrue. Perceptions of bias might arise 100 or 200 times a day because of the involvement of Members in other work and activities. I foresee great difficulties with the implementation of that section.

Deputy Mattie McGrath highlighted a problem with the recent hearings of the Joint Committee on Health and Children, to which I also took exception. I appreciate the work of the Chairman and I acknowledge the contribution of all those who attended to give evidence, but the Government parties were making it look as though the hearings were inclusive by inviting all these people but, at the same time, the hearings were rushed. Like Deputy Mattie McGrath, I have concerns about the people who were omitted or who were not invited to appear. There seemed to be a rush with the committee sitting between 9.30 a.m. and 8 p.m. or 9 p.m., with which I have no problem, but the committee should have allowed more evidence to be given by people representing other sections of society who wanted to air their concerns. Unfortunately, they were not allowed to do so.

I refer to reports. When the tribunals of inquiry published their reports, one would have wanted a lorry to take all the paperwork. What was gained by them, other than a number of people making a great deal of money at the taxpayer's expense? There was not so much as a sop at the end of it. Allegations were made but there was nothing at the end of it. I would welcome any Government proposal that would ensure such a scenario could not be repeated.

23 May 2013

The people want to know how the banking crisis was allowed to happen, why future generations will be saddled with debt they did not incur and why young couples will be left struggling all the days of their lives. It is a great regret of mine that some young people will never have disposable income because every penny they take in will have to be accounted for and budgeted because of the enormous debts they have. They want to know how this was allowed to happen, how the banks were able to do what they did, how hundreds of billions of euro were given to property developers and how a small number of people ran the country into the ground. I do not take the blame from politicians. Where was the oversight and regulation? When I was starting out, if a person went to the bank manager looking for a few thousand pounds, he went with his cap in his hand and he was fortunate if he was given a small loan. We ended up in a position where bank managers were telling people who wanted €250,000 that they were better off to take €300,000 and go on a holiday or buy a new car or make a few other purchases and roll it all into the mortgage. There was no regulation, oversight, control or thoughtfulness. Somebody has to explain to the public what happened and why it happened and people have to be held accountable for their actions. It was a massive race to the bottom. I would like an inquiry into that and I would like people to be held accountable. I do not want an inquiry that will compound the insult to people by incurring significant costs. Nobody wants that, including the Government parties, and it should not be the case.

I compliment former Senator, Martin McAleese, who showed what could be done on a modest budget. He published an excellent report, which was condensed, factual and well received by everybody, including those on whose behalf he was conducting it. They had, unfortunately, been subject to harsh conditions over many years. He did that work with a small group of people for a modest cost - approximately €12,000. That is the workmanlike, no nonsense way to do business. It shows that inquiries can be conducted for a modest cost.

I refer to the inquiries referendum in autumn 2011. The electorate endorsed the *status quo*, where the scope of any Oireachtas inquiry to make findings that would damage the reputation of any individual is strictly limited. The Government parties were side swiped by the electorate and they got a land because they did not see it coming. I saw it coming because I dealt with people every day who were saying they were against what the Government proposed. The best way to describe this was they did not trust the Government parties in what they wanted the electorate to allow them to do. We have to be careful and mindful that the people must have confidence in the systems that are put in place. This is related to ensuring due process for individual, which is vital, and having proper checks and balances in place.

A high profile case was referred to the Standards in Public Office Commission in the past few days. I look forward to due process in that case and to the commission's response. It could have major implications for the Government.

It is something many of us are eagerly awaiting. I am sure it will deal with that issue in a workman-like way and that it will not dilly-dally about it.

We talk about people having the right to their good names. I noted a Deputy had concerns about what had gone on in his case. I do not want to paint everybody with the same brush, because we have very respectable journalists, even in Dublin, who do good work, report things in an honest and factual way and who are intelligent, but we also have journalists who write for national and other newspapers for whom it is like a race to the bottom. They push the borders out all the time, whether in regard to a Minister, a Deputy or somebody else. Much of the time their targets are politicians. We have to take criticism if we deserve it but how do they honestly

stand over calling people names and using bad language? It is a race to the bottom. It is like a test every day to see how far they will go and there is a clique of them at it. Somebody has to shout “Stop” because one cannot allow that type of behaviour. People are entitled to their good names.

We are extremely grateful to the electorate for giving us the opportunity to serve it. One of my proudest days was the day I was first elected to Kerry County Council, and I only barely got elected. The people entrusted me to work for them and, thankfully, they have kept me at it since then. I carry on my work in an ordinary way and, like every other politician, I do my very best every day but that does not mean certain sectors of the media can ridicule me and try to paint me out to be something I am not. If they print lies all of the time and if enough people read them, then that perception becomes a reality and they have won.

I do not know if the Minister of State, Deputy John Perry, has been affected by the type of activity about which I am talking but many Members of this House have been. I, for one, will not accept it anymore. I set down a marker in recent months and tackled some of these situations. I am glad to report that local charities are quite happy with my engagement with these newspapers because they were the winners at the end of the day. I was very glad that the rubbish which was written benefited people in my community financially. I challenge the journalists who wrote about me in the past to write about me again and I will get more money for charities, which is proper order. If lies are written about other Members of this House and if they are ridiculed and made out to be something they are not, I strongly suggest they take on the newspapers because everyone is entitled to his or her good name and to get up in the morning and to do his or her work. If that work is representing people, it does not mean that one can be pilloried by somebody with a poison pen. Such people are out there and they think it is colourful and intelligent to use bad language and to make derogatory statements about people. What right does a person writing for a newspaper have to do such a thing?

Journalists may take a differing view but that is the world of politics and, thankfully, we live in a democracy. Fair comment and fair criticism are always welcome. I would be critical of many of the things the Minister of State’s Government has done but I would not become personal towards the politicians proposing and supporting what is being introduced. I would disagree with the proposal but I would not go after the person promoting it.

Editors have to be fair. When they see what can happen, they will wake up to the fact that there is no room for gutter journalists and that there is nothing smart about somebody writing with a poison pen and trying to ridicule people because of where they come from. These people think they have a monopoly on being right. From what I have seen of many of them, they do not have a monopoly on intelligence. To think that their parents sent them to school and to university to write some of the rubbish they write.

Having said that, we have excellent journalists, many of whom attend this House on a daily basis. I will not embarrass them by praising them individually but they know who they are. We have great journalists in this House and around the country who are fair and write properly but we have the gutter journalists for whom there is no room in the Ireland of the future because using bad language and calling people names is the worst type of bullying but they have, unfortunately, been allowed to get away with it. I will not stand for it in the future and I strongly urge other politicians not to do so either and to show we will not be torn apart in a savage way by people who think they are so much better than everyone else. The arrogance of some of them is frightening.

23 May 2013

I thank the Leas-Cheann Comhairle for allowing to speak about this as it is something I had to get off my chest. I will defend myself robustly in the future against the gutter journalists of this country. I will always accept fair criticism and deal with those people in a respectful way. It would be great if others would do the same. I thank the Leas-Cheann Comhairle for his indulgence and I thank the Minister of State. I have made my feelings on this issue well known.

Deputy Liam Twomey: This is very interesting legislation which we will either get very right, and make a significant difference, or get wrong. It is really very different from how the Oireachtas works. It will be a great test of Government and of the courts because we are, to some degree, interfering with some of their functions. The operation of this legislation will be a very significant test for Members of the Oireachtas.

Many Deputies commented on the role of tribunals in the past. Tribunals are judicial inquiries and they can find fact against individuals and organisations because they are very much part of the courts. Reference was also made to the recent hearings of the Joint Oireachtas Committee on Health and Children on the Protection of Life During Pregnancy Bill 2013. Everybody said everyone should have his or her say in this regard but it is always about striking the right balance at committee hearings. Deputy Mattie McGrath sent out a press release saying some individuals were denied the right to appear before the committee. He supported a Government for quite some time which gave nobody the opportunity to have his or her say. We are now dealing with an issue which is 21 years old. He has claimed that people have not been given the right to have their say, but he denied people that opportunity, in effect, when he was on the Government side of the House. I would say this Government has moved on quite dramatically by giving people an opportunity to air their views. The issue in question was discussed in January and a further three days of public hearings have just concluded. The legislation has not yet been introduced in the House. This is part of the reforms that have been actively promoted by the Government. We are being a bit more transparent and opening up the Dáil. I think we are going even further. There is a whole plan in play. People have not noticed some of the changes that have happened. They will notice them over time.

I became a Member of the Oireachtas in 2002. I would suggest that in that time, it was the last Government which made the most significant attempt to close down debate and deny the people the accountability and transparency they expect from the Oireachtas. This was done subtly, for example, by means of small changes to the freedom of information regime and the way people do business in the House. It was enough to make it more difficult to hold the Government to account in the way people expect. As we consider this legislation, we must be careful that these inquiries do not take on a quasi-judicial status. That is not what the purpose of this Bill should be. We are not the courts and we are not the Government - we are the Parliament. When we hold our inquiries, it will be important for those involved to see this as one of their functions as parliamentarians. Obviously, there will be a risk that people will slip into thinking they have a role as senior counsels or judges in these inquiries. That is not what we are about. As parliamentarians, we have a much broader remit than that of a judge or senior counsel in the workings of the courts.

This Bill is interesting because we have already asked the people of Ireland whether they trust politicians or the Oireachtas enough to allow them to carry out full inquiries into issues like the banking crisis. That proposition was rejected by the people. Basically, that means the people of Ireland do not trust politicians or the Oireachtas to carry out fair inquiries in the manner that was promoted. I think we should have looked for answers from the results of that referendum to help us to frame our approach to this legislation. When the referendum proposal

was rejected by the people, there was clear concern that the people did not trust us. We should find out why the people showed such mistrust of us. Many Members of the House, including some of the members of the Government that is introducing this legislation, might not wholeheartedly agree with it. We have to reflect the concerns of the people when we are deciding how much power to give ourselves in this Oireachtas. We have to think not only about ourselves, but also about those who will follow us in the Oireachtas. We must ask how much power we would like to give to those who will be asked to ascertain the facts about issues that could have an affect on people's lives.

The greatest flaw in any decision to give powers to the Oireachtas is that too often, neither the citizens of this country nor the Members of the Oireachtas see us as true parliamentarians. The power in this country lies with the courts and with the Government. The Parliament also has many powers, but the Members of the Oireachtas tend to refrain from exercising them. We take our lead from the Government, or we are led by the Government. It has been no different since the foundation of the State. As I have pointed out, many of these powers were weakened by the actions of the last Government. We have allowed some of the powers of the Parliament to slip from our hands. There is a need for people to define themselves - to set out exactly what they are as parliamentarians. Being a true parliamentarian is not just about looking for free votes in the Chamber or deciding to lose the Whip by voting against a specific measure proposed by the Government. It is about the day-to-day work of the Oireachtas. I suppose that should and could be done in a more consensual manner. We will need to change the adversarial approach that unfortunately dominates politics and business in this country if we really want to make this legislation work. A more consensual approach will be needed in the event of a politically sensitive inquiry. We will have to work together to make it work properly for the people of this country.

If we are to be true parliamentarians, we will have to make a greater commitment to reading and critically analysing legislation, reports that are published for the Oireachtas and by the Government and the actions of the Government. Honestly, I do not think that is done by many parliamentarians at present, or at least it is not often done well by most of us in these Houses. I am not condemning the Members of the House. I do not suggest that what I am speaking about is evidence of some kind of faulty trait on their part. I am suggesting that the harsh practicalities of working and getting elected to the Dáil mean that one is far more likely to get a return on work that has absolutely nothing to do with legislation, reports or the inquiries that will be carried out by this House. If we are make these inquiries work, and if there is to be a genuine return on the effort the Minister is making to get this legislation onto the Statute Book, we need to step up our game and to do the work of parliamentarians properly. We will have to change the way we work in the Dáil so that it is less confrontational and involves more critical analysis of the work we do. This is a fault of the way the House works. Backbenchers like me get very little opportunity to criticise any sort of Government policy without being seen as anti-Government. If I was to criticise aspects of health or education policy for any reason, I would be described as anti-Government. That is an indication of the failure of the way this Chamber and the committees work. The media will not consider what one says from the Opposition benches unless one is assassinating the character of a Minister or supporting some other agenda. It is not taken as seriously as it needs to be if we are to make this work.

As this Bill goes through and as people pay attention to it, we need to mature as parliamentarians. We should have confidence in our role and in our ability to make this legislation work. Some of the work that is being done in the committees gives me confidence that we have it

within ourselves to do this sort of work well. It is up to the media to show the same interest in the good work that is being and could be done in the committees. The media should not be fixated on our expenses and on controversial issues like the abortion debate. Excellent work is being done at committee level every week. Those doing that work get no recognition from the media and the wider public, who do not see it as important. There is a need for us to educate the public on the difference parliamentarians can make in their lives. I believe the Oireachtas has changed in the past couple of years. The potential exists to add to the reforms that have already been carried out. It should be recognised that the committees need better resources to enable them to work. If the people of Ireland decide to abolish the Seanad, the committees will have to take on more responsibility for holding the Government to account. The Taoiseach and the members of the Government have already recognised that. The committees are being given a greater critical mass to make inquiries, to do their work and - to some degree - to offer a counterpoint to the role of the Government in running this country.

1 o'clock

I know the Ceann Comhairle is very anxious to make this Chamber work in a more democratic manner and I believe he would like to see even more happen to make this Chamber more free-flowing and accountable to the people who elect us. We must move away from being an irrelevant talking shop, which we are to some degree, and become more of a Parliament.

In moving the legislation, the Minister, Deputy Howlin, has a clear commitment to the sort of democratic process that needs to be brought back into the Oireachtas. He wishes to make changes to the Freedom of Information Act and in regard to whistleblowers, and this and the other legislation the Minister has brought forward points to the experience this Chamber needs. We need to be given the opportunity to become a significant part of the democratic accountability of this nation, along with the courts and the Government. There is a serious need for Members of this Parliament to step up to the plate and make sure we do this work, and do it right.

Up to now, neither the Dáil nor the Seanad has worked to provide that counterbalance to Government. If we are to continue to move along the line as we are doing, for example, in regard to increased scrutiny of Government policy and budget plans, which I know the Minister would like the finance committee to do more of, we must not just scrutinise the Departments of Finance or the Taoiseach, for which we are responsible, but look at public expenditure across all Departments. However, the only way this will be possible is if additional resources are given to the finance committee to enable it to get information and to assimilate and understand the difficult processes that are part of the public finances. None of us is an expert in accountancy or economics, and in order for the committees to work, there is a need to beef them up in a manner which I believe is possible but which is not yet coming through.

The changes that have been put in place to date give the impression that there is an increase in democratic accountability in theory, but it will only work in practice when we have adequate resources. When we have those resources, I believe we will get the right attitude from Members of the Oireachtas to making the committees work in a true manner. The inquiries by the US Senate and the Houses of Parliament at Westminster have both been in the headlines recently in a way that references what is happening in this country in regard to our tax matters. We do not get that sort of publicity because our committees are not resourced to the same level as the committees making those inquiries in the US and UK. At the same time, even with those additional resources, they still got it wrong because it was not an issue of our corporate tax rate but very much about the bilateral taxation agreements that exist between many countries, including

Ireland, and the US or UK. That is very much the cause of the disquiet that is exercising the minds of the US Senate and the Westminster Parliament.

That is the sort of approach we need for this Parliament. We need to beef up our committees and give them the necessary resources. What the Minister is doing here is providing a new legislative way of making an inquiry. However, it is very important we keep in mind that we are not the courts, we are not judges and we are not senior counsel. We are parliamentarians and, when we make our inquiries, we must try to be fair and unbiased towards the people we are dealing with. We must use such inquiries as a means of adding to our stock of information and to the improvement of the legislative roles we hold and the improvement of the legislation that exists, not to repeat the mistakes that have been made in the past.

There is almost a need for a Cinderella clause to be put into the legislation to stop us from trying to use it to fulfil some sort of political goal, such as doing down someone from another political party or settling old scores. That is a very serious concern and one that existed when the referendum was put to the people, in that there was a fear there could be politically motivated inquiries that served no other purpose than to fulfil a short-term political goal on behalf of the Government. If we give genuine powers to the committees and decide to become genuine parliamentarians, we can prevent this sort of issue arising.

During the course of Committee Stage, I am sure we will have a lengthy discussion with the Minister on this issue. The Minister has brought in new measures in the legislation, such as qualified privilege for confidential communications from members of the public to Members of either House. There is a strong need to discuss this further with the Minister to ensure this privilege is not abused, for which there would be scope. There will also be a need to discuss further with the Minister how our terms of reference will work and how that will interact with the High Court, as well as what opportunities there will be for interested parties to file their own observations with the High Court before we could start an inquiry. I wonder whether this will become an issue. Section 92 makes provision for an application where a committee is of the opinion that a report could prejudice criminal proceedings, so there is a need for us to scope this out further with the Minister on Committee Stage. Section 97 allows for an appeal to the court where a direction from the committee could prejudice criminal proceedings which are pending or in progress. Again, we will need to scope this out with the Minister.

I presume the terms of reference will come from Government and, therefore, I presume there will be a significant role for the Attorney General, although I may be wrong on this. I would like the Minister to point out what sort of legal opinion would be available to the committee if it was to establish an inquiry of this sort, and whether there would be a role for the Attorney General to give us legal clarity as to what we could do.

Overall, this is another progressive piece of legislation from Government. It is following on with the concepts of accountability, transparency and responsibility to the people who elected us. It is up to us to step up to the plate, become real parliamentarians and make this legislation work. When I am in committee, I often find that those calling for meetings and inquiries, or demanding that we need to do this, that and everything else, are the ones who fail to turn up when we actually get witnesses before the committee. There will be a spotlight upon us in doing our job and it is important we face up to those responsibilities. I hope we will get the resources to do it properly.

Deputy Tom Fleming: After 18 months of procrastination on the Bill, I welcome that it is

before the House. The referendum on granting more powers to the Oireachtas and compelling witnesses to come forward was lost in November 2011. This was unfortunate in that it would have advanced the timing of this legislation. At the time, the Minister, Deputy Howlin, carried out an investigation as to the reasons the referendum was lost. It appears people were genuinely confused and concerned at some of the proposals being brought forward. All of this was exacerbated by the legal profession, given several Attorneys General opposed it vigorously, and this certainly put an element of doubt in the minds of people. Unfortunately, that was the chief reason for its failure. Anyway, we are where we are at this point. We are finally about to introduce the legislation which will at least give specific power to the Oireachtas to hold a sworn inquiry. Commencing an inquiry into the dubious bank guarantee which has so many unanswered questions is certainly not before time. The US, Iceland and the UK are countries where such sworn public inquiries have been held in the recent past. There was no dithering or undue delay in these countries about examining financial misdemeanours within their jurisdictions swiftly, fairly and competently.

There has been general bewilderment, dismay and annoyance among the general public about why these matters were not addressed more expeditiously. The alleged perpetrators who have contributed in no small way to bringing this country to its knees with the consequent loss of economic sovereignty have some very serious matters to clarify. It is an extreme case of belated action and the appetite and urgency of the public seem to have abated because in the meantime, citizens have taken the full brunt of the hardships of austerity and very harsh budgets over the past five years. In respect of rescuing reckless banks, it was a time where the nod and the wink was the order of the day and regulation and regulatory powers were soft or non-existent.

The extent of the Oireachtas inquiry hopefully facilitated through this Bill must be extended to involve the participation of witnesses from outside the State, particularly officials and personnel from the European Central Bank, ECB, whose knowledge and revelations regarding the events of 29 to 30 September 2008 will be crucial to the verification of the events. Perhaps a mechanism can be included in this Bill whereby it would be mandatory for the ECB to provide all relevant documentation pertaining to that era. The presence of the ECB managerial officials at an Oireachtas inquiry is also paramount. Then and only then will we be in a position to get the unvarnished facts regarding the events that led to the arrival of the troika on 20 November 2010.

Nearer to home, it is important that all files and other relevant information from the Department of Finance be accessible to the inquiry. This Bill must address any deficiencies in the legalities that may obstruct access to these vital documents. We have seen the recent debacle where John Moran, the Secretary General of the Department of Finance, refused to hand over 9,000 files on the collapse of the banks to the Oireachtas Committee of Public Accounts. This gives a very clear signal of non co-operation by an arm of the State to enable the elected legislators of Dáil Éireann and Seanad Éireann to act on behalf of the citizens. This is an appalling situation, to put it mildly, and is certainly an affront to our democracy.

It should be possible within this Bill to make provision that in an Oireachtas inquiry into matters as important as this, issues covered by Cabinet confidentiality, which up to now have been protected, would be made available to such an inquiry. We should also address this matter retrospectively within the legislation for the sake of transparency. Where there is an exceptional inquiry, Cabinet confidentiality must be opened up.

I mentioned the ECB earlier. I believe the Taoiseach, Tánaiste and the Minister for Finance can jointly pursue on behalf of the Government and people of Ireland vital documentation relating to ECB dealings with Ireland during the banking crisis, the events leading up to the troika bailout and the recent liquidation of the IBRC. Relative to the size of our country and economy, the cost of €62 billion is by far the most expensive relative to GDP among the more developed world economies. So far, we have had some token examinations of the issues. The previous Government commissioned Klaus Regling and Max Watson to conduct a review of the macro-economic factors behind the banking collapse. There was a report into the failure of regulation by the governor of the Central Bank, Patrick Honohan. Another such report was produced on the shortcomings of the Department of Finance. Another report was the Nyberg report, which was to be a very significant and in-depth report into the crisis and the banks themselves. Unfortunately, it did not meet its potential. Although it had the potential to be the most potent, Mr. Nyberg's report ended up being the most disappointing. Even at this stage, John Moran is withholding some vital documentation relating to the Nyberg report.

An Leas-Cheann Comhairle: It is a long-standing convention that we do not name people outside the House. I ask the Deputy to bear that in mind. I do not want to be too fussy but that is the convention.

Deputy Tom Fleming: I understand but he is well away from us in Finland. It is very relevant because his name and all the names I have mentioned are very much involved in the whole debacle.

An Leas-Cheann Comhairle: The Deputy can refer to documents but cannot name names.

Deputy Tom Fleming: I know. In respect of the sheer volume of work involved in the Nyberg report and the timeframe of six months, there was something in the region of over 1,500 documents per day on average to be perused and clinically and microscopically examined. Disappointingly, the author of the Nyberg report said assigning the blame to a particular individual was not within his remit. He chose not to identify any individual, but he did identify organisations by name. However, he interviewed former bank chief executives such as Mr. Seanie FitzPatrick and Mr. Michael Fingleton. Without wishing to be over-dramatic, we are talking about two of the main culprits who are very identifiable and recognisable in this saga. What they said will probably never be revealed, unless and until such time as the documents are released to the National Archives in 2040, by which time the events will have been well buried in history. I hope we can resurrect matters, even at this late stage, to put things in order, hear proper explanations and go beneath the surface. What we know is merely the tip of the iceberg.

I ask the Minister of State to take that point into consideration. Perhaps a mechanism might be devised whereby these revelations and the compilation of facts by Mr. Nyberg can be revealed within the confines of this investigation by the Oireachtas inquiry. There may be a loophole, some means and way of getting at these facts in order to put them before the Oireachtas.

I refer to the Bills digest on the matter of Oireachtas inquiries. It states:

The power of parliament to hold inquiries into matters of great public concern exists in the vast majority of parliamentary democracies. The Joint Committee on the Constitution of the 30th Dáil, following consultation with legal and political experts, concluded that the Irish Parliament has much less power in this field of parliamentary inquiries than its international equivalents. In fact, the current case law indicates that the Houses of the Oireachtas

23 May 2013

do not, as a matter of constitutional law, have an inherent power to inquire into matters of public importance, beyond the remit of their functions as a legislative body, and in the case of Dáil Éireann, holding the government to account. In fact, one of the major findings of the Supreme Court in the *Abbeylara* case was that the Oireachtas had no inherent power to carry out inquiries of the kind it did in that case.

This statement is very revealing and gives even more urgency to the Government proceeding to put in place the proper provisions in this Bill.

The policy intent of the Bill is that in the light of the rejection of the constitutional amendment, the Government aims to provide a statutory framework for parliamentary inquiries within the existing constitutional framework as set down by the *Abbeylara* judgment. It follows a consultation process which aimed to establish the legislative underpinning required for Oireachtas inquiries and included pre-legislative scrutiny of the general scheme of the Bill by the Joint Committee on Public Expenditure and Reform. A key difference between the inquiries provided for in the Bill and those envisaged in an attempt to deal with the issue *via* constitutional change is that this Bill does not provide the Oireachtas with the power to determine the appropriate balance between the public interest and the individual's right to a good name. We need to address all of these relevant matters in the interests of justice, truth and ethics. There is a job to be done by the elected Members of the Houses of the Oireachtas. I hope we will proceed with vigour and a sense of fairness and justice to give this and relevant matters their rightful hearing in the very near future.

Deputy Kevin Humphreys: I wish to share time with Deputies Seán Kyne and Eoghan Murphy.

I thank the previous contributor. I wonder how far we would have got without that poster "Kangaroo Court - No Thanks". There has been a delay in carrying out a proper inquiry. The result of the referendum was unfortunate and if it had been otherwise, we would be much further down the road. I do not think the Government has delayed bringing forward legislation.

I thank the Minister for Public Enterprise and Reform, Deputy Brendan Howlin, and his staff for their work in the drafting of the Bill which is a key part of the broader reform agenda being driven by the Minister. The package of legislative change covers freedom of information, whistleblower legislation and the regulation of lobbying. I congratulate the work of the Minister and the Minister of State, Deputy Brian Hayes. Transparency, ethics, justice, responsibility and efficient public services are the key goals to be achieved to ensure the mistakes of the past are not repeated.

The IFSC Clearing House Group attended the Joint Committee on Finance, Public Expenditure and Reform yesterday. The group was established in the early 1980s but is only now publishing the minutes of its meetings. The documentation and presentations associated with the sub-groups need to be published because they influence our law and public policy. This level of transparency is required and should be demanded by us on behalf of citizens. The intended framework for Oireachtas inquiries is detailed and must be carefully analysed by all Deputies. The manner in which we conduct our business and how we investigate matters of public policy have to be fair, efficient and democratic and not open to legal challenge.

I share the frustration of other Members that it is five years since the bank guarantee was given and three years since the EU-IMF bailout and that there has been a delay in establishing a

banking inquiry. However, this delay is the result of the careful analysis which the Government has undertaken.

The Bill will not provide for the apportionment of blame. Those on the Opposition benches always want to blame somebody such as a particular Minister or an individual outside the House. The correct approach to be adopted under the Bill is to inquire into events, establish the facts and the failings of public policy to ensure these events are never repeated. We wish to ensure that whoever follows us in the future will never be able to move the country towards bankruptcy, as happened under the previous Government.

It will be decided whether an inquiry will be an inquire, record and report inquiry or a legislative inquiry. A balance between the two would be preferable. I hope that when the Minister comes back, he will elaborate on just how that will develop.

The legal framework provided for in the Bill will ensure we will have a quick and robust inquiry with clear powers available to all Members. It is welcome that the right to establish an inquiry is vested exclusively in the Houses, which recognises their importance. If we look at what happened in the past 15 years, we will see that more and more powers were taken from the Houses and vested in the Executive. I recognise that the Bill vests power in the Oireachtas again. It is much easier to complain about problems than to recognise the powers set out, which are very important.

I recognise that the Ceann Comhairle was very ambitious about getting wider media coverage of committee work. The work he has done in allowing committee meetings to be broadcast by UPC has produced improved engagement and understanding by the public of what happens in committees. I have seen this in the contact members of the public have had with me. I make the point because when the Bill is passed, it will, rightly, be the subject of a great deal of coverage. Deputy Liam Twomey made a very important point, that we must resource the committees properly. More and more heads of Bills and reports are going before them and they must be strengthened and provided with research capacity and support services to work effectively. The public will recognise this. It is not about showboating and grandstanding; it is about being efficient and bringing forward effective legislation. The Bill is a sign that we can do this. I look forward to engaging on the legislation on Committee Stage. There is much more that I would like to say but time has run out.

Deputy Seán Kyne: A person's good name is protected under Article 40.3 of the Constitution which provides that the State, by its laws, shall protect as best it may from unjust attack the good name of every citizen. This provision was reaffirmed in the *Abbeylara* judgment. The referendum proposal put to the people in 2011 as defined by the Referendum Commission was that the Dáil and the Seanad would have the power, separately or together, to conduct an inquiry into any matter considered to be a matter of general public importance; that when conducting any such inquiry, either or both Houses would have the power to inquire into the conduct of any person and the power to make relevant findings about that person's conduct; and that the Dáil and the Seanad would have the power to determine the appropriate balance between the rights of people involved in any such inquiry and the requirements of the public interest. The referendum was rejected, perhaps on foot of concerns of a former Attorney General and the Law Society of Ireland who felt the wording had a potentially far-reaching effect on the constitutional right to procedural fairness. The will of the people must be respected and the Government wishes within the constitutional framework as decreed by the *Abbeylara* judgment to provide a statutory framework for parliamentary inquiries. The Bill does not provide the Oireachtas with

the power to determine the appropriate balance between the public interest and an individual's right to a good name.

The Bill represents an important step in clarifying the role of the Houses of the Oireachtas in investigating issues of public interest and provides statutory underpinning for five general types of inquiry. These are an inquiry limited to recording and reporting evidence, an inquiry related to legislative functions, an inquiry related to the removal of certain officeholders, an inquiry related to the conduct of Members of the Oireachtas and an inquiry into the conduct of a current officeholder, a senior civil servant or a chief executive officer of a public body who is liable under the terms of his or her contract to be held to account to Dáil Éireann.

Previous speakers, including Deputies Jerry Buttimer and Anthony Lawlor, have referred to parliaments in other countries and their powers to inquire. The US Senate conducts hearings on issues of public interest and is a powerful investigative body. The authority of the US Congress to investigate is an implied constitutional power, the significance of which was anticipated as far back as 1788 when James Madison urged "In framing a government which is to be administered by men over men [...] you must first enable the Government to control the governed and in the next place oblige it to govern itself". While that language is somewhat archaic, Congress has exercised its investigative responsibilities since the earliest days of the republic and today congressional oversight enables House and Senate Members to serve as the eyes and ears of the American public. Many well known Senate inquiries have been held, including inquiries on the sinking of *Titanic*, Watergate, the Ku Klux Klan and the Iran-Contra scandal. Clearly, these were issues within the public interest. I would like to think that if similar issues arose here, it would be in the interests of the public that the Houses of the Oireachtas would have similar powers of inquiry.

In time, the people, through the media, will see hard questions being asked on foot of the powers set out in the Bill and an opportunity may be given to them to consider once again a constitutional amendment to give the Oireachtas the powers necessary for a fuller investigative role. That is not to dismiss the important role played by the Committee of Public Accounts, as we have seen in the past within the current constitutional framework in the matter of the DIRT inquiry. Prior to the DIRT inquiry, the then Attorney General, Mr. David Byrne, set out in advance the constitutional parameters for the participants. He stated that it was understood that findings of fact on the central issues could be made and sent in a report to the Dáil for debate, whereas findings on the responsibility of individuals had to be avoided as that was the work of the legal system where there were appropriate protections for a citizen's good name. A senior counsel was appointed to sit with the Chairman of the committee to provide legal direction. Clearly, the DIRT inquiry worked and we must provide clarity for future investigations as outlined in the Bill.

It is clear that people want to see politicians, senior civil servants and chief executives held to account. They want the people involved in the banking sector to be held to account also. They want a banking inquiry. When I canvassed during the referendum on powers of inquiry, it was clear that people did not trust politicians to differentiate between bankers and the little guy. They felt the little guy would be picked out by politicians equally for inquiry and they were concerned. It is worth noting in this regard the comments by the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, yesterday. He said:

The main caveat to the scope for such Oireachtas inquiries is that the terms of reference of such inquiries cannot focus on the conduct of individuals, rather, they must relate, for

example, to the systems, practices, procedures, policies and the implementation of policy, and the effectiveness of legislative and regulatory systems.

This is important, given the right to a good name as conferred on the individual by the Constitution. I look forward to the Bill progressing through the Oireachtas.

Deputy Eoghan Murphy: I congratulate the Minister for bringing forward the Bill. The referendum on the powers of inquiries failed in 2011, which, in one respect, was an incredible achievement by the people, given the near consensus politically in favour of making an amendment to the Constitution. Much of the commentary at the time was very much in favour of the amendment, but the people chose to do otherwise. Doing so in the face of such political consensus must be recognised as an achievement and it would be arrogant of Members to say the people got it wrong and that we should run the campaign again. It is more important to look at what the people decided and admit that we got it wrong. We can then debate whether the issue was one of timing or substance. Perhaps, it was a campaign issue. We got it wrong and the people said no to the proposed change to the Constitution.

Nevertheless, we have before us a Bill on the conduct of inquiries. It is perhaps the most significant Bill to reform the practices of the Oireachtas to be published in the past 15 years or more. It is incredibly important and should in no way be regarded as an attempt by politicians to sidestep the will of the people in the referendum. The Bill is completely and goes nowhere near the powers set out in the proposed amendment to the Constitution. It is important in the powers it provides for the Oireachtas and committees. It is also very important in the context of the referendum on the abolition of the Seanad which will take place in the next couple of months. If we are to remove the second Chamber, we must be absolutely certain that the remaining Chamber will be able to perform the tasks a parliament should be able to carry out in a democracy such as ours. It must be able to provide for the checks and balances and stand confidently and assert its opinions and use its judgment in the way a parliament should and to work with the government of the day. The Bill is very much part of ensuring this Chamber will be able to stand on its own, confidently and competently, should the Seanad be abolished. I will support the referendum when it is held.

This is not just about the Bill, it is also about the reform of the committee system, as many Members have said. Recently, at a Fine Gael Parliamentary Party meeting, I and other colleagues put forward different ideas on how to reform the committee system. We are conscious of the mandate every single Member was given in 2011 to fix the economy and also to reform society and the political structures in the country so that the mistakes of the past, which destroyed the economy, cannot happen again. That is our central mandate and at every step of the way we must ask whether we are doing enough, reforming enough and changing enough to make sure it cannot happen again. This Bill is part of that but more work needs to be done in the committee system to do that. The committees must be given more teeth and those serving on the committees must be given more teeth.

I refer to the use of the Whip system on every single issue in committees. An important issue was raised in respect of the Bill and the use of the Whip system. We discussed it at the meeting of the Committee of Public Accounts and Deputy Donohoe made reference to it. Is it possible to whip members of the committee holding an inquiry such as this? Is it possible to whip members on the terms of reference for the inquiry, the findings made, the conclusion or how the business was to be conducted? I believe we could not because it would undermine the standing of the findings of the inquiry. When the first inquiry happens after the Bill is passed,

it will lead to interesting challenges to the Whip system and will bring the use of the Whip in Irish politics front and centre.

Some are critical of the time it has taken us to bring the Bill to the House in the context of the banking inquiry because they want it to happen. The work done on the possibility of a banking inquiry in the Committee of Public Accounts sets out the amount of work that needs to be done. The significance of the legislation and what we are trying to do, bearing in mind what may happen with the Seanad and what people said in the referendum in 2011, means we must take our time in what we consider and how we take it through Committee Stage and make amendments. It will be an important change for this Dáil. It is ridiculous but there are those who say the Government may not want to hold a banking inquiry. The idea must be rejected at every turn. It is part of our mandate to discover what happened on the night in question, the preceding weeks and months, the following weeks and months and what was happening in the years building up to the collapse. We need to look at it to learn from it, understand it, improve our systems and move on through a form of catharsis for the country as a whole. That is why the Government wants to hold a banking inquiry as soon as possible, deal with the legislation and get it through and move to that stage. Much of the work of the Government has been to deal with legacies from the past, trying to correct mistakes or, where mistakes could not be corrected, trying to negate the impact of their outcome. The Government had to find the courage to do new things and this Bill, and the referendums, including the Seanad referendum, are examples.

The protection of life through pregnancy Bill is a new thing, as is the courage of the Government to deal with a legacy issue that was not dealt with before. The protection of life through pregnancy Bill, and how heads of the Bill were handled by the committee, pave the way for the kind of reforms we should see in every committee dealing with legislation. It is incredibly important. When I look at the debate on the protection of life during pregnancy Bill, I look at the substance of what is discussed and also how people are reflecting on how it is being discussed. It is returning some standing to politics, politicians and the practices we engage in in this House and its committee system. That is a good thing and we need to see more of it in our committees. We need to be more transparent in our work so people see us at our best and worst. People need to see us wrestling with these issues in public, consulting experts, taking our time and deliberating on important points for the country as a whole.

When I get the opportunity to speak, I continually say that passing legislation makes it the law of the land. Sometimes we are not certain how the legislation will be interpreted, unintended consequences on the enactment of legislation or how a situation may come about that was unintended. It happens all the time and we must reform and amend legislation. That is fine and is part of the parliamentary process. That is why it is so important we take our time with these important matters.

Deputy Kevin Humphreys and Deputy Twomey referred to the extra resources needed for committees. If we want to have the kind of committees we see in the European Parliaments with successful committee systems, and if committees are to act as checks and balances to the Government, as the Seanad could have but never did, the committees will require extra resources. That involves extra people, extra money and extra facilities. We should not be shy about spending a small amount of money where it will bring about great reform and financial savings in the work Government does. Potentially, a committee that we will set up will prevent a future economic collapse or a particular problem with banking regulation. That is a money-saving in the long term.

I have not begun to get to the substance of what I wanted to speak about because I went off script. This Bill will lead to a banking inquiry. The Committee of Public Accounts did a substantial amount of work in preparing a preliminary report. I wanted to read parts of into the record because we never had the chance to debate the report properly. Six members sat on the sub-committee and put a lot of work into it, together with the officials. It is comprehensive and contains a roadmap for holding a banking inquiry. We never got to debate it in detail because we do not debate enough committee reports in the Dáil. One of the reforms we must make is to bring the work from individual committees to the Chamber so people who do not sit on committees can see the work others are doing and that the public as a whole can see it. The roadmap exists but I caution that the kind of banking inquiry we can have, given the powers conferred on us by the Constitution, will not be what people hoped for. However, it will still be incredibly important to have the principals of the day come before a public committee to take public questions in full transparency and openness. That will be an important moment for the country and I look forward to it. I congratulate the Minister on this Bill, which is perhaps the most progressive legislation in reforming the Dáil in the past decade or more. I am very proud the Government is doing this in conjunction with other efforts for reform.

Deputy John McGuinness: I would love to be able to take to my feet and say the Bill will resolve all of the issues concerning the powers of committees. I wish it would, but I do not think it will. I will address the reasoning behind that and what we want to achieve. In committees, at the Committee of Public Accounts and publicly, I have said there is a clear and absolute need for an inquiry into the financial collapse that happened in the country. We need to set out a narrative that explains to people exactly what happened, how the system failed and how people in the banking sector, Government and the Civil Service acted or spoke about it in the lead-up to 2007 and 2008 and what happened after. Like many other people, I want to see that happen. Everyone who spoke in the House acknowledged it as the starting point. It is not that people are vindictive or want to go after an individual or banking organisation: they simply want to know.

It is incredible to think that, since 2008, we have had nothing but discussion, debate and noise on the issue while we watched the reaction of other Governments and countries to the banking issue. They could hold people and institutions to account and, in doing so, they presented their people with the narrative and a detailed explanation. It may not satisfy people and it may anger them all the more but it will set it in context so they can understand what the current Government is doing with the economy. They can judge it for good or bad but at least they will have something to contrast against by which they can explain matters.

With that in mind, I pursued the notion of a banking inquiry. Then we looked at the committees of the House to make it happen. How can we make the committees function? The Committee of Public Accounts set out in its report of July 2012 - the Minister has a copy of it - the roadmap for such a banking inquiry. The committee tested it against legal opinion both inside and outside the House. It is not just a report concocted by Members. It was deliberated upon and debated at length. We took advice on it, including legal advice. We came up with a direct roadmap to a banking inquiry which, in the process, strengthens the committee system in the Oireachtas. I am disappointed that the system in the House does not allow a very important document such as this to be debated. Deputy Murphy has acknowledged that as well. In that debate we could possibly have arrived at solutions to problems that are faced by committees, not just the Committee of Public Accounts, and strengthen them in that process, before introducing this very complex legislation which will probably be challenged in some way or other by individuals or organisations.

23 May 2013

What are the problems facing the committees? The Minister knows them well as he has been a Member of this House for a long time. The Minister refused to accept a Bill which sought to reform the Office of the Comptroller and Auditor General by allowing the Comptroller and Auditor General to audit local government. There was another example of that this morning in the Committee of Public Accounts. Millions of euro are allocated by the Office of Public Works, OPW, to local authorities but only 5% of that allocation is being tested and audited. I am not satisfied with that. The Committee of Public Accounts, in the context of the Bill I introduced, is the proper authority to audit every cent of taxpayers' money that is spent by the Government, yet the Minister refused to accept that single reform.

There are other areas of reform highlighted by the Committee of Public Accounts. Let us say we proceed to hold a banking inquiry. If somebody decides not to attend the inquiry because they are being investigated by somebody else, they need not attend the inquiry. The Committee of Public Accounts encountered this last week. A witness was invited to attend the meeting arising from expenditure of €4.4 million in an unofficial account. He said he was being investigated by the Garda. If I relate that to the dioxin report, for example, the Garda investigation into an event that cost the State a fortune is still ongoing, so anybody being investigated need not necessarily appear before the Committee of Public Accounts. Consider our investigation of the Dublin Docklands Development Authority. Again, this cost the State millions of euro. The last figure I read was €58 million but if one takes into account that the banks have now taken over those loans through the National Asset Management Agency, NAMA, it is in the hundreds of millions. Witnesses were invited to attend, but only one responded. Could a simple legislative measure not be provided to insist on such witnesses turning up for a Committee of Public Accounts hearing?

This similarly applies to documents. If an individual states that the documents are for his personal use, we cannot touch them. That is absolutely incredible. We also had a situation where during the investigation into the Dublin Docklands Development Authority we discovered that under a previously unused Standing Order the Minister had stood down the investigation. We have quite correctly taken it up again. Despite all the problems we face and the lack of legislation and reform in this area, we will continue with the investigation.

In the recommendations in our report - we have yet to receive a response to the report - we set out, first, why there is an urgent need for the inquiry. We proceed to recommend that the Committee of Public Accounts should conduct the inquiry. Why the Minister has gone off in search of another committee is beyond me when there are other established committees in the House that are quite capable of conducting such an inquiry, should the Minister be willing to provide them with the appropriate powers and legislation that they might need to continue in the way set down by the report.

In the report we dealt with the bank guarantee. We suggested that a significant number of questions remain to be urgently answered regarding the available policy options and decision making processes used during the weeks around the guarantee. We suggest that the Committee of Public Accounts, without this legislation, could examine the role of the banks and ask about their responsibility in the crisis. From there it could proceed to the role and effectiveness of State institutions. This is all clearly set out in the document. The document acknowledges that we are working within the confines of the Constitution, the Abbeylara case and the In re Haughey case, all of which have an impact on how we conduct our business. The report comes down in favour of what the Minister has provided for in the legislation, the inquire, record and report model. There is less risk attached to it and there is an example of how it was used pre-

viously in the Wallace inquiry, which successfully set out the proceedings in that inquiry. We believe that is the way to proceed.

To assist any further banking inquiry, we are currently completing a bank stabilisation report which covers the period prior to 2008, links it with the Comptroller and Auditor General's report and brings it up to date. We have asked for the assistance of Mr. Elderfield in this regard and I suggest that the previous Secretary General of the Department, the civil servant in charge of banking and the previous Financial Regulator could be asked to come forward to assist with that report. No offence is meant to anybody. They would simply set out their memory of that time and capture for any future banking inquiry the information and detail of the time, which is absolutely necessary. It is now six years since it happened. Memories fail people, particular events are not recorded properly or there is only a sketchy memory of other events. To get over that, why not allow the Committee of Public Accounts to inquire, record and report? It would be a helpful measure for a future, comprehensive banking inquiry.

Why not release the documents held by the Department of Finance, without them being redacted? Why not examine under the Cabinet confidentiality rule the documents that might be released to assist the Committee of Public Accounts with its inquiry?

2 o'clock

Does the Minister know whether the Department of Finance, for example, has inquired into what meetings were held, who attended them, their agenda and the papers circulated at them so any future inquiry will be able to rely on the bank of information gleaned? The information will be essential in the carrying out of an inquiry. Is any of this work being done by Departments or officials in preparation for what will have to be a banking inquiry in the interest of the citizens of this State who must stump up the cost of the financial collapse of the country? Is anything being done to deal with the anger over the fact that there is no inquiry into any of these matters? Could the Minister tell us, on Committee Stage or later, whether he has instructed the other Departments to collect relevant information? Will the information or correspondence within the Department that has already been spoken about by the whistleblowers be protected and made available? Has the Government taken steps to ensure this? Is all this activity happening now or must we wait for the passage of this Bill and for it to be tested in some way before we realise we should have taken action earlier?

The answer we get at meetings of the Committee of Public Accounts suggests it would be too costly to hold an inquiry of the kind I desire. I do not accept that. We are dealing with billions of euro in taxpayers' money. We can blame whoever we like for the collapse politically but we are in the business of accountability and transparency. If, tomorrow morning, an ordinary citizen walked out of a store without paying for a bottle of milk, a large sliced pan or a pound of butter, or if he did not pay for services, he would be in court immediately. The cost to the State of the collapse is approximately €64 billion, yet we must go through this process in this House to get answers. That is simply not good enough.

As progress is made on this legislation, I would like to see officials instructed by the Government to gather the relevant papers, names and information such that they will be ready to be presented to the committee that will eventually carry out a comprehensive banking inquiry. This is what should be done in the context of the management and logistics of the system.

The Government has a very large majority. It promised reform and this Bill is part of it.

23 May 2013

I would love to see that reform being delivered. I sit in opposition on this side of the House. On the day that the current Government was formed, I expressed the hope that the promised reforms would materialise on the grounds that they would be good for the country, just as what is proposed in this legislation will be good if we can achieve it.

The committee system in the Houses needs to be examined in the context of this Bill. During the DIRT inquiry, there was co-operation from all concerned. Compellability was not tested, nor was anything else. Individuals came and made their contributions, and those who had to pay a penalty later paid that penalty, but the committee system in the Houses ground to a halt. The committee system, with all its flaws, is very important to the democratic process of this House. Alongside this legislation, there should be a plan to ensure the continuation of the work of all the committees. It should be explained how the committee system in the Houses will remain active at its current level and be strengthened in terms of the legislation and inquiry process. It should still be funded and capable of continuing its work should a banking inquiry be put in place. Thus, the consequence of this Bill will not be one that sees the committee system wound down for a period. The Committee of Public Accounts, of which I am Chairman, should be allowed to continue to hold its inquiries and carry out its work consequent to this legislation. That is important in terms of the democratic process in the Houses.

I hope this legislation will be passed and be successful. Everyone wants that. However, I would like the issues I have raised in regard to all committees, not just the Committee of Public Accounts, dealt with fairly and properly in respect of costs and the continuation of committees' work. That is crucial. I look forward to assisting our spokesperson, Deputy Seán Fleming, who made a positive contribution to the debate last night, on some of the amendments that are necessary. I thank the Minister for taking the time to listen.

Deputy Alan Farrell: I am sharing time with Deputy Seán Kenny.

I thank the Government for introducing this Bill. Regardless of the outcome of the inquiries referendum in 2011, and judging by the number of Deputies who have spoken on this matter in recent days, I believe there is a strong public and political appetite for the proposed powers to be enshrined in legislation so as to ensure public representatives in the Houses can hold to account those who spend public money and who are involved in governance. The public deserves an inquiry system that represents its interests, administered by the individuals it elects to represent it in the Oireachtas. It is not good enough to rely upon the media or legal system to carry out this function. Individuals in government are put on trial daily in the media. Although some brave and skilled investigations have been carried out by journalists over the years, it must be realised that the media comprise a commercial industry whose primary interest is to sell advertisements, newspapers, etc. The legal route, as we have seen with the Mahon and Moriarty tribunals, is far too expensive, costing the taxpayer hundreds of millions of euro. It is far too time-consuming and not fit for purpose.

Needless to say, the result of the Oireachtas inquiry referendum was a disappointment for many of us who came to this House after the election with an appetite for reform and to achieve accountability on behalf of the electorate. The general discourse on political reform at the time was focused strongly on changing how the national Parliament worked in a meaningful way and on issues of national importance rather than local agendas. The referendum was a lost opportunity for the Dáil to make a real impact on some of the cornerstone issues, such as the banking inquiry, in respect of which our constituents elected us to fight on their behalf.

There were a number of points made on the referendum and the criticism of the Government's attitude to the referendum. The Government set out to change the Constitution with the aim of holding to account those who brought down our banking system. It intended to do so behalf of our constituents, including those who were brought down by the system. A Government doing its job is not front-page news, however. Unfortunately, the referendum did not feature in many headlines and the "No" side set out to undermine the ability of elected Members of the Oireachtas to carry out the intended function. There is a great deal of expertise and skill in the Houses of the Oireachtas and undermining its function is detrimental to the members of the public who elected us.

I pay particular compliment to the Chairmen of the various committees who have spoken yesterday and today. They do invaluable work on a daily basis in the House, which often goes completely unnoticed. The committee structure is where the vast majority of the work of the House is done, rather than in the Chamber.

The meaningful work that takes place in this building is not represented in the pantomime of this Chamber, but instead takes place in committee chambers. The committee structure best serves the national interest in the Dáil, often away from local political agendas, and is the most effective and functional aspect of the House which largely goes unreported and, often, unnoticed by the public. Deputies contribute to committees and examine issues of national importance such as legislation and public accounts, and the dedication and skill of the Members of this House are demonstrated every day through this structure.

On my earlier point on elections and political reform focusing on national issues, and at the risk of losing parish pump votes, undermining the function of Dáil Members or dumbing down the role of a Deputy would only guarantee a self-fulfilling prophecy. Fundamentally, the Government and legislators are people who decide where public money is best placed and it should be up to us to hold people to account if it is not used appropriately or outside the public interest.

In this regard I refer to section 10(2) of the Bill which outlines the power to inquire into the conduct of certain officeholders. This section outlines that a committee may record and report evidence and make findings of fact against those directly impugning the good name of a CEO of a public body which is subject to the scrutiny of the Committee of Public Accounts. However, it does not include commercial semi-States and organisations which receive less than 50% of gross receipts from public funds. Any organisation in receipt of funding from the taxpayer should be open and accountable to the Committee of Public Accounts. I presume that will be the function of the committee that will be established as a result of the passing of this Bill. What is the point in dealing with a semi-State organisation which perhaps received 49% of its funding from the State, totalling €100, not being held to account? Such organisations should be held to account by the House. We should maximise the impact of this Bill on management and leadership in such organisations by holding them to account within the committee structure that will be set up.

This framework will only succeed if a committee can properly compel witnesses to attend. I understand legislative supports have been in place for committees which may wish to strengthen their ability to compel a witness, but in practice I am interested in how this has worked. For example, Homebond refused to come before the Joint Committee on the Environment, Culture and the Gaeltacht. Deputy Broughan and I were particularly interested in that, given our involvement with pyrite in our constituencies. Homebond was established by statute and was heavily involved with the Department of the Environment, Community and Local Government.

23 May 2013

A number of Deputies found it perverse that it was not compelled to come before the committee. There should be no opportunity, other than in exceptional circumstances, for any witness called to the House or its committee structure to refuse to answer.

In 2010, the Joint Committee on Economic Regulatory Affairs investigated the banking crisis. Neither Sean FitzPatrick nor Ernst and Young agreed to come before it. They were not compelled to do so on the likelihood that the High Court would refuse to issue such an order because of the fear of prejudicing an ongoing investigation into Anglo Irish Bank. It is the policy of the Minister and Government to provide for an inquiry into the banking guarantee via this Bill. However, if this is still the case will the inquiry be limited to former Ministers? If that is the case, it may turn into an exercise in obfuscation.

I would also be interested in hearing the views of the Minister of State on using Ireland's relationship with friendly countries in which our citizens may live. Can we avail of their co-operation to extradite citizens, on suitable grounds, in order to compel witnesses living in other states?

This framework is a tool for Members of the Oireachtas to improve the service they provide to the public and hold those who spend public moneys to account, and is an extremely important function. As has been said on a number of occasions, this will be a resource-heavy facility and should only be required when absolutely necessary.

I wish to touch on points made by a number of Deputies, in particular Deputies Donohoe and Buttimer. There is an incredible wealth of expertise in this House which has been called upon over a number of years. People have proven themselves to be excellent inquisitors for the public good. I saw some photographs during the 2011 referendum campaign, where nameless but prominent first-term Deputies were pictured on the back of donkeys with the caption, "Do you want these jackeens inquiring into the public good?". My answer to that is "Yes", because they are the people's representatives and were put here for a reason. They were put here by the public to scrutinise the function of the House.

I endorse the sentiments of numerous Deputies in ensuring that whatever committee structure is set up as a result of the passing of this Bill has the teeth necessary to perform its functions in the best way possible. I look forward to the speedy passing of the Bill.

Deputy Seán Kenny: I welcome the Minister of State to the House. The purpose of the Bill is to establish a statutory framework for the Oireachtas to conduct inquiries within the current constitutional framework, as set down by the Supreme Court in the Maguire case, also known as the Abbeylara judgment.

The Minister, Deputy Howlin, strongly supports the objective of undertaking an effective and robust parliamentary banking inquiry. This Bill envisages a central role for the Oireachtas in initiating and conducting a parliamentary inquiry. The Bill contains extensive provisions on fair procedures and the conduct of members of committees to avoid any perception of bias. In addition, inquiries conducted under this statutory scheme will be governed by and subject to guidelines that may be issued by the Houses of the Oireachtas.

The constitutional position is that it would not be permissible for the Oireachtas to legislate to create a power for the Houses of the Oireachtas to conduct inquiries that would have implications for the reputations of individuals, unless a specific constitutional authorisation for such a power can be identified. It is, however, constitutional for the Oireachtas to conduct inquiries

which have no implications for the reputation of individuals and to hold forward-looking parliamentary inquiries which are geared towards policy and legislative issues.

The Dáil has an implicit constitutional power to conduct inquiries in order to hold the Government responsible, even if this affects the reputation of individuals, but it does not extend to investigating the activities of past Governments, provided that an inquiry is a bona fide attempt to operate within the constitutional constraints. It is not constitutionally problematic that inferences adverse to people's reputations may be drawn.

The Bill would provide legal certainty in this area and would provide the necessary framework for an inquiry operating under proper constitutional authority to carry out its functions. It would address all ancillary powers, procedures and the creation of offences necessary for the conduct of an inquiry. It would also balance the public interest in the investigation of matters of importance, with the protection of the constitutional right of an individual to his or her good name in a manner that would be robust and would withstand possible constitutional challenge.

Of the five separate types of inquiry that can be held under the Bill, I am particularly interested in inquiries related to a legislative function as this is where work of real benefit can be done. This is appropriate where information on past events is believed to be directly relevant to a forward-looking issue, such as the case for new legislation. An inquiry of this nature would have the potential to make findings of fact which could indirectly have an adverse reputational effect for an individual, but would not be permitted to make findings having direct adverse effect on the reputation of an individual.

The final decision on the holding of an inquiry under the Bill is subject to the endorsement of the Dáil and Seanad by way of a resolution.

Full compliance with the provisions regarding fair procedures is a requirement for any inquiry. That is essential, particularly where a person's good name could be adversely affected, even by inference, by the findings of an inquiry. Even where an inquiry has no scope to make findings that could have an adverse effect on the reputation of individuals, absolute procedural fairness must be observed. In addition, access to the courts will be unfettered in respect of all procedural aspects of the inquiry process and remains open at all times. In other words, if individuals feel the need to seek relief in the courts, that route is open to them.

The Bill includes extensive requirements to safeguard the constitutional rights of any person participating in an inquiry, including the right to challenge proceedings where an individual believes the conduct of the investigation is in breach of the Bill. Additional safeguards include the requirement to give advance notice of the evidence proposed to be given against an individual, the ability to cross-examine witnesses for the purpose of challenging an allegation, the capacity to furnish evidence to the inquiry to answer an allegation and the opportunity to argue one's case in closing submissions when the giving of evidence is completed. These provisions are further strengthened by the capacity for individuals to request that the committee direct specified persons to attend before it to give evidence or to direct the committee to send for specified documents.

This is complex and delicate legislation with serious constitutional implications in the area of civil rights and civil liberties. Given that those rights and liberties are of the most profound value in any democracy, we simply must get it right. I am confident that the Minister has got the balance right in terms of upholding the constitutional rights of individuals while also providing

for a workable structure of effective inquiries. I support the proposals.

Deputy Dara Murphy: I welcome the opportunity to contribute to the debate on this important legislation. The context for these proposals is the *Abbeylara* judgment and, as many speakers have observed, the rejection of the 30th amendment to the Constitution. It is important to acknowledge that the *Abbeylara* judgment imposed a requirement on the Government to put in place a statutory framework defining the role and scope of Oireachtas committees and inquiries. The defeat of the constitutional amendment does not discharge the Legislature from that obligation.

Reforming how the Oireachtas works is a key pillar of this Government's programme of work. Newer Deputies in particular will certainly have views on how the committee system might be improved. There is undoubtedly enormous potential within the committees, particularly in the context of a less adversarial approach in recent years. There is scope to achieve a great deal when the focus is not on point-scoring. The banking crisis provided a significant impetus in regard to this legislation, but it should not be allowed to dominate the debate. The procedures set out in the Bill will be available to all the Oireachtas committees to facilitate them in inquiring into a broad range of matters of public interest.

Several specific concerns in regard to the provisions have been raised in the course of the debate, and there is sure to be a vigorous engagement with the Minister on Committee Stage. An issue of concern to me relates to the question of how the Dáil functions. We all hope and expect that this Dáil will run for another three years. It is impossible to know, however, in any Dáil, whether the Government will run its full term or when an election might arise. Where a committee is undertaking an inquiry and the Dáil is subsequently dissolved in the course of that inquiry, is there any provision for its work to continue? Will all such inquiries fall by necessity, or could some provision be made in this regard in the legislation? In regard to inquiries into the conduct of Members, where Members who anticipate an adverse finding against them choose to resign their seat, would the inquiry fall at that point? I accept that all of these issues will be teased out on Committee Stage, but the Minister might comment on those two points.

Several speakers referred to the prospect that Government majorities will somehow negate or impinge on the functionality of these investigations. I reject that contention. Under the current committee system, Opposition Members are absolutely free and able to ask any questions they require. In fact, they are generally facilitated to do so by way of lengthy speaking times and priority in the order of speakers. The numerical breakdown of the Dáil will not give rise to significant monopolising by the Government of how these matters proceed. That has not happened in the past and I do not expect it to happen in the future.

It is clear that Oireachtas committees require enhanced powers to allow them to function more effectively. This is particularly important in a political context where we might potentially see the abolition of the Seanad. We are all aware of the ongoing discourse in Britain and the United States in regard to the types of activities in which companies that function within their areas are engaged here in Ireland. The Oireachtas is almost unique as a parliamentary democracy in having no capacity to conduct those types of inquiries. We must have the ability, as in Britain and the United States, to address issues of concern to the electorate in a real way.

Many of the speakers on the Opposition side have focused on what we will not be able to do under the new legislation. The reality, however, is that its provisions will ensure there is a great deal we can do. Reform can take place without necessarily having recourse to making

statements of fact, which is a matter for the courts. Several speakers are of the view that these provisions will be tested at an early stage in the courts. That is to be welcomed. The sooner there is clarity from the courts, the sooner we can move to a process that is clearly understood by witnesses and Members alike and by the Judiciary. In too many instances, unfortunately, we have seen how difficult legislation that is required by a ruling of the Supreme Court is kicked down the road. The Minister is doing his job, as is the Minister for Health in an another area, in bringing forward the legislation we are required to produce.

Minister for Public Expenditure and Reform(Deputy Brendan Howlin): I thank colleagues on all sides of the House for the informed and thoughtful range of contributions on a Bill that is of particular interest to Members of this House. As many speakers observed, the legislation will allow the House to conduct inquiries into matters of general public importance in an effective and efficient manner within the well structured and well understood constitutional parameters laid down by the Supreme Court.

There are many legitimate inquiries the Oireachtas may conduct. The last speaker's contribution was interesting. We should not focus on the lack of powers, rather let us exercise the many powers we have to the maximum ability. A robust power of inquiry can play a very important role in ensuring lessons are learned from failures and that future legislation is influenced and guided by these lessons to the benefit of citizens and taxpayers. The approach represents the best assessment of my Department and the Government of what is constitutionally permissible based on the tenor of the Supreme Court judgment in the *Abbeylara* case. I had a direct involvement in that case as a member of the Oireachtas sub-committee and attended the hearings in the High Court and the Supreme Court.

The Bill places considerable responsibility on the Houses, a point missed by some Deputies. This is not confined to the Government. It empowers the Houses to take full command of these matters. It envisages a central role for the Oireachtas in initiating and conducting a parliamentary inquiry. It is for the House to determine the appropriate subject for an inquiry, the nature of that inquiry, the terms of reference and so on. Under the terms of the Bill, responsibility is assigned exclusively to the Houses of the Oireachtas to determine the requirements for a formal inquiry, the terms of reference, the appropriate committee to conduct the inquiry and its procedural and organisational aspects. Many of the detailed arrangements and procedures to be followed will be laid down in the rules and Standing Orders of the Houses.

I wish to comment on some of the observations made by Deputies during the course of the debate yesterday and today. We will have careful regard to everything that was said, particularly between now and Committee Stage. Several Deputies mentioned bias, wondering if it would be possible for the Houses to find Members to participate in a banking inquiry, given the statements of so many Members on the matter. Any assessment of whether there is a perception of bias will depend firmly on the circumstances of the individual case. It is for the Oireachtas to make the assessment of bias in the first instance. The matter could ultimately be determined by the courts by way of assessment of the view formed by a reasonable person. That is how it is expressed in the Bill and that is the objective - what would a reasonable person construct as bias in terms of, for example, the specific utterances of a member of an inquiry committee that are directly relevant to the specific matters that are the subject of the inquiry under its terms of reference or serious shortcomings in the procedural fairness with which an inquiry is being carried out. Members of the Oireachtas would be expected to have strong views and express them on a range of important matters, particularly of public policy, relevant to the Legislature, the people and their parliamentary role. The fact that members of an inquiry committee have

formed a preliminary view of serious failures in the performance of particular organisations and sectors, for example, has been the subject of other reports. That would not disqualify them from participating in an inquiry, provided that it was not established with the objective of establishing individual misconduct relating to that failure. It seems that it would not be appropriate for members of an inquiry committee to make public comment immediately prior to or during the course of an inquiry on the matters under inquiry where its findings had the potential to impact adversely on the reputation of an individual.

Deputy Sean Fleming questioned the purpose of the Bill and wondered whether there was anything new in the legislation or if such matters could be regulated better or more readily under Standing Orders. The Bill represents an important step in the process of clarifying the role of the Houses of the Oireachtas in securing accountability through the appropriate use of the inquiry mechanism. Other Deputies have since said that if one reads the *Abbeylara* judgment, the Supreme Court is of the view that we need to set these matters out in statute law. The Bill sets out the overall framework, but in so far as possible it respects the authority of the House or the Houses to define their own procedures under their rules and Standing Orders as is proper under Article 15.10^o of the Constitution.

Deputy Sean Fleming also raised some issues about periodic or interim reports to ensure work done would not be wasted, a point also raised by Deputy Catherine Murphy. The Bill provides for this in section 31 which states the House may request interim reports in writing in accordance with its rules and Standing Orders. The Deputy also referred to the number of new committees to be established. It is not intended that there will be new committees, simply clearly defined roles that can be assigned to existing committees. There could be many roles for the same committee.

Deputy Sean Fleming referred to the exceptions provided for in section 68. These largely replicate, as I indicated they would, the Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997. Cabinet confidentiality, for example, is protected by the Constitution. Certain exemptions are necessary to ensure the public interest is protected during the course of an inquiry. Even if such exemptions are not included in the Bill, one would expect any committee of inquiry to carefully consider whether the disclosure of certain documents or certain information would be prejudicial to the interests of the State in dealing with clearly difficult security issues or prejudicing criminal proceedings. These are matters to which an inquiry and its chairman would have to have regard.

Deputy Sean Fleming also mentioned former Members of the House, an issue on which other Members also touched. If this type of inquiry is to be undertaken in any instance, it will depend on the precise nature of the matter into which it will inquire. The focus of a section 9 inquiry is a Member of the House in his or her capacity as a Member. It may be that in certain circumstances another Part 2 inquiry, other than a section 9 inquiry, might be appropriate.

Deputy Aengus Ó Snodaigh and others said this legislation was being rushed. I am sure Deputies on all sides will appreciate the urgency attached to having this legislation enacted. I appreciate that it is a large Bill which was difficult to digest before Second Stage, but I hope the very significant pre-legislative scrutiny undertaken by the Oireachtas Joint Committee on Finance, Public Expenditure and Reform since last November when the long heads of the Bill were published has enabled Deputies to give this matter a good degree of consideration.

I fully agree with Deputy Finian McGrath's comments on the damage done to politics by

the actions of a minority of Members and former Members. I hope this legislation will assist in strengthening the effectiveness of the Oireachtas and enhancing trust in our political system. The Deputy referred to the commitment in the programme for Government to change the restrictions on the evidence of civil servants. Section 90 provides for this change.

Deputy Shane Ross wondered whether, as parliamentarians, we were the appropriate persons to conduct inquiries. Yes, we are. That is the nature of parliament everywhere. I do not know of any parliament that does not conduct inquiries and we are peculiar in being unable to do so, or incapable of doing so, in a robust fashion in this Parliament. I agree with Deputies Paschal Donohoe and Jerry Buttimer that this legislation provides an opportunity for us to change the political culture by giving the Oireachtas the tools to do its job effectively and trusting Members of the House to do that job.

Several Deputies mentioned the appropriate balance on committees. Section 16(2) provides that a committee of the House or the Houses may issue guidelines on the procedures for inquiries. Such guideline may include “to the extent practicable, achieving a balance between committee members as regards their respective political affiliations”.

Deputy Catherine Murphy and others mentioned the Callely case before the Supreme Court. It would not be appropriate to delay the Bill to await that judgment, but we will, of course, have regard to the decision of the Supreme Court in due course.

Deputy Finian McGrath also talked about the importance of fair procedures. That is an extremely important issue. We have paid huge attention to ensuring fair procedures.

Deputy John McGuinness mentioned how effective the DIRT inquiry had been. He is right. That inquiry was not resisted, witnesses came voluntarily, papers were produced and the scoping exercise had already been done by the Comptroller and Auditor General. It would be somewhat more fraught if witnesses were reluctant to come and we needed to exercise compellability to seek papers, documentation and to summon witnesses before a committee. That is why we need a robust framework. To do that, we need to ensure that fair procedures under the Constitution and natural justice are fully complied with.

Deputy Nolan believed some other speakers were misleading regarding the scope of the Bill. I welcome the clarity he brought on this matter to the debate. I echo his statements that this Bill fully conforms to the rules of fair procedures as set down in the Abbeylara judgment. That is why we have taken such care in the Bill’s crafting.

Deputy Dowds regretted the Oireachtas inquiries referendum was not passed. We must always have respect of the views of the people expressed but it would have been an advance for the Oireachtas if it had been passed. There was a message in the referendum result. In the subsequent analysis, we learned we need to win the trust of the people. If the people are going to give us powers, particularly to call in people and cross-examine them, we need to manifestly show we are capable of doing that without abusing them. We have seen instances where people were before committees and were bludgeoned, for want of a better word, by Members. That colours people’s perception on whether Members should be given power to summon people. We need to ensure that when we exercise the significant powers we already have, we do so in a fair way.

Deputy Dowds also spoke about the abolition of the Seanad, a point touched upon by several Deputies. Abolition of the Seanad is a position I came to after careful consideration in

23 May 2013

advance of the last election when I wrote a position paper for my party on the issue. I looked at second Chambers internationally and how they operated. Accordingly, I do not believe there is any case for one here. If we are to convince people to vote for the Seanad's abolition and have a unicameral system, it will mean this Chamber must manifestly show it is capable of doing the people's work in a fair way. That means rebalancing the relative powers between the Executive and Parliament. That means we must have better and stronger committee systems that are clearly resourced. As the Minister charged with resources, I have no illusions about this and I look forward to proposals coming in that regard from Members.

Deputy Pringle said the Bill contains no specific provision to permit a committee to appoint an investigator. In fact, there is nothing in the Bill that would prevent that. The procedure we had envisaged had the inquiries referendum been passed was to have a scoping committee of the House which would appoint a parliamentary investigator to scope out inquiries. There is nothing stopping a committee of the House under this legislation appointing such an investigator. If the issue to be examined is a particularly complex financial matter, it can appoint a financial expert. If the issue is medical, then it can appoint a medical expert.

Acting Chairman (Deputy Terence Flanagan): The Minister has one minute to conclude.

Deputy Brendan Howlin: I did not realise there was a time limit on reply.

Acting Chairman (Deputy Terence Flanagan): It is not less than one minute.

Deputy Brendan Howlin: So, there is no limit.

Acting Chairman (Deputy Terence Flanagan): There is no limit.

Deputy Brendan Howlin: That is what I thought.

Deputy Lawlor talked about the costs associated with the Moriarty and Mahon tribunals and posited the view, one with which few would disagree, that they were very large and excessive. That is one of the reasons we need to have a cost-effective system of conducting inquiries. I believe the framework we are putting in place will do that.

Deputy Harris commented on several issues which I hope we will be able to tease out on Committee Stage in some detail.

Deputy Healy-Rae asked about the right of the people to get answers to important questions. That is what this legislation is about. Quite often what passes for debate or inquiry in the Dáil is rhetoric. All of us - I do not exclude myself - are very capable of grandstanding on issues. It is harder work on a committee to grind down to issues, trawl through facts and read documentation. That is the real work we have to set ourselves.

My constituency colleague, Deputy Twomey, made a thoughtful contribution to the Bill, for which I thank him. He raised the issue of the advice available to committees and the appropriate role of the Attorney General. The Attorney General is the legal adviser to the Government and, therefore, would not be advising House committees. There is a parliamentary legal adviser, however, an area which may need to be strengthened as we bed down the inquiries system.

Deputy Kevin Humphreys raised the need for committees to be properly resourced, a matter I touched upon earlier.

Deputy Kyne spoke about the public demand to hold people to account. All Deputies interact every day with people. We know people have endured much in the past four years, by and large with a degree of stoicism and forbearance which has not been replicated in other countries, such as Greece and Cyprus, which have also gone through difficult times. There is a demand, however, from the Irish people that those who made disastrous decisions be held to account and an explanation given as to why these events occurred.

We have a separation of powers and a robust constitutional protection of individual citizens' rights. That is all well and good until someone is on the wrong side of that and one wants to ensure one's individual rights are fully exercised. It is a view held by many that the wheels of justice are grinding very slowly in these matters. These are in the hands of others, however. It is right and proper that we respect others to do that difficult task. As long as it is not an issue for lack of resources or another matter that we should respond to, we should let these matters be dealt with by the competent authorities. Accountability is what the people expect and demand.

Deputy Dara Murphy said the House must stand confidently to exercise its authority and powers in the absence of a Seanad, if the people decide to abolish it. That is a point I touched upon earlier.

Deputy McGuinness raised several points which we will deal with on Committee Stage. I thank him for his thoughtful contribution

Deputy Farrell asked if an inquiry will be limited only to former Ministers and about the nature of such an inquiry. The Government accepted my recommendation that it would be wrong for the Executive to be prescriptive in the drawing up of an inquiry's terms of reference, what should be inquired into or who should do it. This is an enabling Bill that gives that responsibility back to Parliament. In advance of the vote on the inquiries referendum, I told the committee we expected to be in charge of inquiries and determining who should conduct them that this should not be a matter for the Government, but for Parliament reasserting itself. When this legislation is enacted, there will be a responsibility on all parties and Members to reflect on this new measure because it will require new Standing Orders and rules of the House to be drawn up within 50 days. I hope Members will think about this in the interim, as we can tease out these matters on Committee Stage. However, there will be a responsibility on the Oireachtas to deal with this issue. I have dealt with the other issues raised by Deputy Murphy.

I reiterate that parliamentary inquiries under this legislation can be cost effective, efficient and resilient against legal challenges provided they are focused on the terms of reference and comply with the rules of fair procedure, which are set out. The Bill provides all the constitutional safeguards to protect the rights of individuals consistent with the result of the referendum and the view of the people and the proper rulings of the courts.

I thank all Members for a constructive, comprehensive and overarching debate. I look forward to debating these matters in a few weeks on Committee Stage and putting this framework in place in order that the real role of Parliament can march onwards.

Question put and agreed to.

23 May 2013

Select Committee

Minister for Public Expenditure and Reform(Deputy Brendan Howlin): I move:

That the Bill be referred to the Select Sub-Committee on Public Expenditure and Reform pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

Sitting suspended at 2.55 p.m. and resumed at 3.42 p.m.

Topical Issue Debate

Defence Forces Equipment

Deputy Seán Ó Fearghail: In other circumstances, I might be inclined to complain about the non-presence of the Minister for Defence, Deputy Alan Shatter, but I suppose he has other questions on his mind today. However, I warmly welcome the Minister of State, Deputy John Perry, to the House to take this issue.

On the face of it, this might not seem like an earth-shattering issue but nonetheless when we look back over the past 50 years, Members on both sides of the House are very proud of the work our Defence Forces have done abroad, representing this nation in peacekeeping initiatives. When we sent our first mission to the Congo in 1950, it was perhaps not ideally equipped. I remember reading that woolly jumpers were sent with them, which I imagine would not have been the most appropriate kit for the Congo.

All Ministers for Defence in recent years have taken great pride in the fact that the equipping of our Defence Forces has improved enormously. The quality of the Mowags we have, our artillery capabilities and the extent of the training available to our Defences Forces are second to none and, as a nation, we can hold our heads high. That is why I was surprised to hear reports that the current contingent of members of the Defence Forces sent to the Lebanon were not provided with the appropriate personal kit.

The particular question I have surrounds the issuing of inappropriate footwear to members of the Defence Forces. As I said at the outset, it might seem like an insignificant issue but for those people who are labouring for us in the deserts of the Lebanon, it is a vitally important issue. Desert boots are normal kit for such tours of duty but I understand members of the Defence Forces have been supplied with steel capped boots, both supplied by the same manufacturer. One set of footwear is appropriate while the other is most inappropriate.

I would be happy if the Minister of State told me I was completely wrong but my sources are quite satisfied and insistent that the information I have is correct. Perhaps I will give time to the Minister of State to put on record the situation and respond later.

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

Perry): I thank Deputy Ó Fearghail for raising this matter. The Minister, Deputy Alan Shatter, asked me to apologise for his unavailability.

The Department of the Defence has not received any requests from the Defence Forces for the provision of additional clothing. In any event, the procurement of such clothing is a function delegated to the Defence Forces. I am advised there is no issue in regard to the provision of standard issue boots. Prior to departure to the mission area, all personnel would have undergone a kit inspection and any clothing item requiring replacement would have been replaced accordingly.

Ireland has a long association with UNIFIL since its establishment in 1978 and the 108th infantry battalion of 357 members of the Irish Defence Forces was recently deployed to Lebanon. Participation by members of the Irish Defence Forces in UNIFIL is a continuation of our honourable tradition of supporting the United Nations in the cause of peace and security, a tradition spanning over half a century.

I will outline the background to the acquisition of clothing and equipment for the Defence Forces. The Department of Defence maintains an open door policy with its acquisition of such clothing and equipment. The principles of transparency, non-discrimination and equality of treatment are applied to the widest possible extent to companies interested in supplying such equipment to the Defence Forces.

Tender competitions are held by the contracts branch in the Department and the Defence Forces for the acquisition of a wide range of clothing, kit and defensive equipment covering standard ammunition, weapons, armoured personnel carriers, light tactical armoured vehicles and a wide range of clothing and equipment for the individual soldiers to ensure that they are suitably equipped to carry out their roles at home and overseas. The principal aims of such tender competitions are to achieve value for money for such equipment and to ensure a fair tendering process for all companies.

A particular focus is maintained in ensuring that modern and effective equipment is available for overseas peace support operations. The personal equipment, including clothing, which the individual soldiers have at their disposal in Lebanon and on other overseas missions is second to none. It compares favourably with the equipment used by other countries. The Defence Forces authorities have assured the Minister that appropriate force protection assets and capabilities have been deployed to operate in the current and future environment in Lebanon.

The Defence Forces issue a comprehensive set of clothing to each member of the Defence Forces. This clothing is designed to cope with a wide range of weather conditions at home and overseas. Additional supplementary clothing and footwear may be issued where extreme conditions are to be encountered. I am advised that the Defence Forces are satisfied that the current clothing arrangements are sufficient for the requirements of the Defence Forces. The Minister has been advised that the Defence Forces carry a range of clothing sizes to cater for all sizes. If required, provision is made for an individually sized set of uniforms to be manufactured by the supplier. In recent years, significant work has been carried out on the acquisition of an integrated protection and load carrying system for individual soldiers. This top-of-the-range system includes body armour, helmets, backpacks, rucksacks and battle vests. The battle vests are used for the carriage of essential items such as ammunition, personal radios and water.

I am advised that military training techniques are up to date in all respects. Defence Forces

23 May 2013

training plans are specifically structured to provide the capabilities needed to execute the roles assigned to them by the Government. The challenges of preparing military units for participation in international peace support operations constitute the major dimension of the collective training of the Defence Forces. The primary focus of this training is the attainment of a capability for military interoperability in order to conduct peace support operations to international standards. Training standards in the Defence Forces are constantly benchmarked against best international practice. Defence Forces personnel have full access to the best international training standards available. On behalf of the Minister, Deputy Shatter, and myself, I conclude by wishing each member of the 108th Infantry Battalion UNIFIL a safe and successful mission.

Deputy Seán Ó Feargháil: I agree with the vast bulk of what the Minister of State has said. Of course our personnel are well trained. Of course they are suitable to undertake the tasks they will face in Lebanon. Of course the equipment supplied to them is more than adequate for the challenges they will meet. However, the Minister of State did not really respond to the specific issue I raised. He reiterated the point made by the Army Press Office during the week when it completely denied that there is any difficulty with the use of steel-capped boots by the soldiers who have travelled to Lebanon. According to the information I have received, the military authorities erroneously ordered 600 pairs of steel-capped boots instead of desert boots. This has since been denied by the military press office. I have been informed that the normal desert boots were issued to 238 personnel, but that sufficient numbers of such boots were not in stock to meet the needs of all 320 personnel travelling to Lebanon. I have been told that the desert boots have now been withdrawn from those to whom they had been issued and that steel-capped boots have been issued to all personnel. That has given rise to practical difficulties for the soldiers who are representing this State in Lebanon. Unfortunately, it is leading to a certain level of derision for them as they operate alongside people of other nationalities. While I hope the information I have been given is entirely wrong, I doubt that it is. I ask the Minister of State to investigate the matter.

Deputy John Perry: I can raise that issue directly with the Minister. I said clearly in my initial reply that “additional supplementary clothing and footwear may be issued where extreme conditions are to be encountered”. The Deputy said clearly that there is an issue with the supply of footwear. There is no issue with the standard of the boots that have been provided. If the wrong set of boots was issued - steel-capped boots instead of desert boots - I imagine they could be exchanged. I have no doubt that could be done in the same way it is done by any business or operation that receives the wrong delivery. I do not think it is a case of lack of provision by the State in any sense. The best equipment has been made available. If there was a wrong delivery - steel-capped boots rather than desert boots - I expect they can be changed. I imagine that could have been the case. That is my own observation. The Minister has said there is no issue in this regard at the moment. I would be amazed if the Defence Forces were to state in a press release that there is no issue when there is an issue.

Deputy Seán Ó Feargháil: So would I.

Deputy John Perry: I will raise the Deputy’s concerns with the Minister.

Corporation Tax

Deputy Robert Dowds: I was staggered to hear a report on a meeting of a committee of the US Senate about the tax affairs of two companies which are registered in this country. The

first company, Apple Operations International, is 32 years old, had an income of \$30 billion dollars between 2009 and 2012 and has never had a single employee. Its assets are managed by a company based in Nevada, its bank accounts are located in New York and its accounts and book-keeping are done in Texas. Not one of this company's bank accounts or management personnel is located in Ireland. It holds its board meetings in California. Apparently, the sole Irish director of the company attends these meetings by telephone. Most incredibly, it has not been registered for tax purposes in this country or any other country for at least the last five years. The second company, Apple Sales International, makes an Irish tax return. I would like to know if what was said regarding this company at the US Senate committee is correct. It was suggested that the company paid corporation tax of just \$10 million on profits of over \$22 billion - an effective tax rate of 0.05% - in 2011. According to the Senate report, this arrangement has allowed it to "shift \$74 billion" from the US to Ireland "where Apple has negotiated a tax rate of less than 2%".

It is no secret that we have a low rate of corporation tax in this country. We support this rate because it helps to attract multinational investment. Like everyone else, I welcome this investment. Most of the business world is talking about our corporate tax regime. Ireland has been described as a tax haven in the US Senate even though in many ways it is not. We are asking people to take cuts and tax increases because this country is up to its neck in debt. As we all know, this is difficult for many families. Irish businesses are struggling to stay afloat. Irish people and business owners need to get a cast-iron reassurance that neither Apple nor any other company has been the beneficiary of a special corporate tax rate. The people need to know that every company in Ireland is paying its fair share and that Ireland is not a tax haven. A global debate on this whole issue is ongoing. When the G8 meets in Northern Ireland next month, it is important for the various leaders to consider how best to deal with this matter. It is also important for us to remind Irish and international companies that they benefit from the input of the State in terms of the services provided to them and the education received by their workers etc. I look forward to the Minister's response. I hope he will outline how the Government intends to deal with this issue.

Deputy Ann Phelan: I am also happy to have an opportunity to speak on this pertinent issue. There has been a great deal of commentary in the media in recent days after the CEO of Apple, Tim Cook, was grilled at the US Senate investigations committee. As my colleague, Deputy Dowds, has outlined in great detail, it appears that Apple negotiated a special rate of corporation tax - less than 2% over the last decade - with the Irish Government. It may be the case that possible tax revenues are escaping, but I have to say I am much more concerned about the reputational damage that has been done to Ireland across the world in recent days. I am a great believer in the process whereby perception becomes reality. In the international arena, on which we are reliant because we have to trade on our good name, Ireland is being perceived as a country that facilitates tax avoidance and is fast becoming stigmatised as a "tax haven".

4 o'clock

I do not accept being attributed with such a title. Ireland has a long-standing record in its careful treatment of foreign investment firms. We have a solid, honourable reputation in the United States and Europe for inward investment. One wonders whether this is an attempt by the richest country in the world to recover tax from multinational corporations with US connections. However, to succeed in discrediting Apple worldwide would have huge implications, including very serious implications for Ireland and the economy we are trying to repair. There is no doubt we need to attain a much more structured and transparent way of tackling how tax

23 May 2013

residency is determined and managed in this country. From what I have viewed in recent days, Apple is not tax resident in Ireland or in the US, it is merely registered in this country.

I commend the Taoiseach and the EU leaders for pledging their commitment to intensify co-ordination of tax disclosure in an attempt to tackle issues such as this. It is a combined effort by all EU member states, not just by Ireland on the periphery. In doing so, it is imperative that we strengthen our management of tax residency. I look forward to the Minister's reply.

Minister for Finance (Deputy Michael Noonan): The corporation tax paid by some large multinational corporations and the rate at which they pay that tax is an issue that has attracted a lot of public and media attention recently. Every country in the world has its own particular tax system. These systems have been put in place and developed over the years to reflect their own circumstances. Some multinational corporations, with the assistance of legal practitioners and tax advisors, have exploited the differences in these systems to their own advantage. What is evident is that these corporations can organise their company structures to such an extent that they are able to minimise their corporate tax liabilities while still acting within the law.

In recent days, national and international attention has turned to Ireland, our competitive corporate tax rate and the tax arrangements employed by some multinational corporations based here. I want to reiterate some points that are very important to the debate. First, I want to make it clear that we do not have a special low corporation tax rate for multinational companies. Ireland's tax system is statute-based, so there is no possibility of individual special tax rates for companies. All companies resident in Ireland are chargeable to corporation tax at the 12.5% rate on the profits that are generated from their trading activities in Ireland. A higher 25% rate applies in respect of investment, rental and other non-trading profits. Chargeable capital gains are taxable at the capital gains tax rate of 33%.

I want to make it clear that the tax rates being quoted publicly this week are, emphatically, not the rate of tax paid by such companies, or by any company on its Irish activities. Having examined the document produced by the US Senate sub-committee, it appears the rate that is being quoted is calculated as follows: the tax charged in Ireland on the branch activities in Ireland of companies that are not resident here, on the one hand, is divided by the entire profit of the companies concerned, as if they were resident here, which they are not. It is clearly wrong and misleading to attribute this rate of tax to Ireland. Companies which are not tax-resident in Ireland are no more chargeable in Ireland in respect of their entire profits than they are in the US, and these company profit figures should not be used to assert special tax rates that simply do not apply here.

Second, the ability of multinational entities to lower their aggregate global tax payments using international structures reflects the global context in which Ireland and, indeed, all countries operate. This is an issue that we cannot solve on our own, and in a time when citizens are being asked to dig deeper into their pockets, Governments around the world are now taking co-ordinated action to ensure these corporations pay their fair share of taxes. I would like to reassure the House that Ireland has been proactive and has already taken the lead on many of these global issues. For example, the Irish EU Presidency is making significant progress on a number of key files in the area of tax evasion and tax fraud, and we hope to bring them to a conclusion in the coming months. Along with EU Commissioner for Taxation and Customs Union, Mr. Algirdas Semeta, I sent a joint-letter to the Finance Ministers of the other 26 EU member states in April outlining seven key areas where concrete action can be delivered in the short term. Significant progress on the seven priorities set out in the joint-letter was made at

the May ECOFIN and further progress is hoped for at the June ECOFIN. In addition, Ireland is participating in the OECD's "Base Erosion and Profit Shifting" project, and the action plan on the topic is due to be published in July.

Both the OECD and the EU work has clearly demonstrated that this is a global problem which cannot be solved by one nation or even one continent acting on its own. It is, therefore, unfortunate that Ireland has been singled out in this way.

Deputy Robert Dowds: I am somewhat reassured by the Minister's response. I appreciate very much the work that is being done. I accept this cannot be done on an Irish basis alone and it has to be done across boundaries, and I appreciate that the Government is working to achieve this. I ask that the Taoiseach, as President of the European Council, ensure this issue is prioritised at the G8 meeting in Fermanagh.

I would be grateful if the Minister could comment on the effective tax that has been paid by multinationals. Is he in a position to comment on the international operations of Apple, the company that caused most upset in terms of tax avoidance?

Deputy Ann Phelan: I thank the Minister for setting out the factual situation on how we deal with the multinational companies and their tax situation. I reiterate that what people perceive is what becomes the norm. While I thank the Minister for all the work that is being done on the tax issue, we need to get out there and continuously repeat that Ireland is not, as we have been dubbed in the media, a tax haven. We have a job to do to clear up the unfortunate situation in which we were singled out. We need to keep repeating the mantra that we are not the tax haven we are perceived to be. I thank the Minister for his clarity.

Deputy Michael Noonan: I believe the House appreciates that the taxation affairs of individuals and of individual companies are a matter that is confidential between the individual or individual companies and the Revenue Commissioners. The rate of tax that is chargeable in Ireland on the profits that are made by a company in Ireland is 12.5%. It is only when the global profits of a company are added together, and it is only paying tax in Ireland, and one then divides the Irish piece into the whole lot, that one comes up with a lower figure. We are fully tax compliant.

Tax management, as the House knows, is an international business. Very clever accountants and very clever lawyers are involved in it, and they basically try to get into an unspecified space between the tax laws of two jurisdictions. Operating in that space, they find ways of avoiding the tax that otherwise would have been payable. That is why there needs to be an international initiative, in so far as it is possible, to close down those tax opportunities that are there for those who manage taxes. I understand this will be discussed at the G8. In reply to Deputy Phelan's question, the Taoiseach, Tánaiste and I have all made public statements clarifying the position in recent days. Our diplomats internationally have been briefed and will seek out the best opportunities at the best time to make the Irish case through their contacts.

State Banking Sector

Deputy Thomas Pringle: Permanent TSB had a defined benefit pension scheme which closed to new members in 2006. At the time when Permanent TSB was taken over by Irish Life in 2001, the pension scheme was 120% funded but over the intervening years, the company did

23 May 2013

not make the full contributions that would have been required to keep the pension scheme in balance. There is now a deficit of somewhere in the region of €115 million.

The reason we put this topical issue forward today is because on foot of the Mercer report, the Minister for Finance asked the covered institutions to come back to him with plans for how they were going to reduce their payroll by a minimum of 6%. I understand that Permanent TSB has submitted a plan to the Department of Finance, the main plank of which is that it intends to end the defined benefit scheme within the company. This is projected to save between 8% and 10% of the cost. This may satisfy the Mercer report but will affect 1,200 current and former workers who have taken early retirement and have deferred pensions until they reach retirement age.

This will not affect the existing pensioners because they are protected under existing law but these 750 deferred workers and 450 active members of the pension scheme will see their pensions reduced by between 53% and 68% of what is projected if this scheme is closed in such a fashion. That the company should even consider doing this to the pension scheme is very unfair when it was the company that ran it down by not making the proper contributions over the past number of years and allowing the scheme to run up a deficit.

It is in the Minister's power not to accept this plan from the company, send it back to find the reductions from somewhere else and protect these workers who have invested in this pension scheme, made the contributions and are looking to protect their future which they see being seriously undermined.

Deputy Mick Wallace: I am sure the Minister is well aware that the Government has signalled that the issue would be addressed in the Bill. It is not being done so for other reasons and thousands of workers are facing loss of pension benefits as a result of the Government's failure to do so. IBEC has pointed out that this is very unfair to the workers involved. As it stands, where a defined benefit scheme is at risk of being wound up, people already in receipt of a pension from it have absolute priority, leaving those members who have not yet reached retirement age with only a fraction of the pension they expected. A group of them were in here yesterday, one of whom told us that he had paid for a pension of €20,000 and is now looking at €8,000. He was devastated, as were a number of others. A worker of 64 years of age who is months from retirement might be left with only a fraction of what they would have expected. They pointed out that although the chief executive, Jeremy Masding, has taken a 2% cut in his contribution to his pension, he is not taking a salary cut.

When people put money into pension schemes, I do not think they saw it as a form of speculation yet we have seen plenty of evidence where people who have speculated in the banking area have been paid in full. We must listen to the chairman of Permanent TSB, Alan Cook, say "we have an obligation to save the bank and we have to take corrective action at this time." We save banks but we do not save people. Does the Minister think this is fair?

Deputy Clare Daly: We are told that in less than ten days' time, Permanent TSB will shut down its payments into the defined benefit pension scheme and move to a defined contribution scheme. The points made by the other Deputies are very relevant. This is an absolutely enormous blow to over 1,200 people who had a reasonable expectation that they could retire with some degree of certainty that their living standards would be protected. I have no doubt they had made plans with their families and instead, almost overnight, they face the prospect of having to live out the rest of their years in relative poverty having paid into a pension scheme

all their lives.

The reason we are raising this issue is because the Minister has the power to do something about this. When the Government sold Permanent TSB to Irish Life, the pension scheme was adequately funded. Contributions have not been kept up. The Government has failed in the legislation before the House next week to deal with the priority system when defined benefit pension schemes are in jeopardy. Not only IBEC but also the unions involved have said they do not want the scheme shut down but want to look at alternative ways in which this issue can be dealt with. It is sickening to think that this proposal is coming off the back of a cost-saving measure when enormous fees and payments are being made to board members, not just those working in a full-time capacity but part-time directors who are getting more for attending a couple of meetings a year in an average payment when one spreads it out over the year than people who retired after spending decades working in the banking system.

We are asking the Minister to look at this issue, call a halt and instruct the bank not to shut down the defined benefit scheme and to enter talks under the auspices of the Labour Relations Commission or whomever to come up with a fairer answer that does not leave people pauperised in the latter years of their lives after having worked all their lives for a decent pension.

Deputy Michael Noonan: When publishing the review of remuneration practices and frameworks at the covered institutions on 12 March 2013, I indicated that the Government had formed the view that with the remaining covered institutions still incurring losses, it was an inevitable conclusion that the cost base of the institutions needs to be reduced further. This is essential if they are to return to profitability, be in a position to support the economy and repay the State's investment through a return to private ownership.

On behalf of the Government, I directed the banks, including Permanent TSB, to achieve 6% to 10% savings on remuneration costs. I was not prescriptive in how this was to be achieved respecting their differing levels of State ownership and paths to profitability. Those outline plans have been received but it is not possible at this stage to reveal precise individual details bar what has been put into the public domain. I can confirm that all three institutions have put forward pension changes to varying degrees as part of their respective responses.

I am constrained as to what I can say presently due to commercial sensitivities and perhaps, more critically at this stage, industrial relations concerns as the normal protocols continue and need to be respected and observed by all parties. This is something I have advocated throughout this process. I am anxious, therefore, that all the participants in these discussions are given space and time to conduct these critical negotiations.

Accordingly, I encourage all sides to engage in these discussions proactively through the appropriate forums in view of the serious consequences for all concerned. In this context, the Government readily acknowledges the sacrifices made by bank employees to date at all levels and recognises that this has been achieved without major industrial unrest in what is a critically important sector.

In respect of the specific issue - the proposed wind up of the defined benefit pension schemes at Permanent TSB - I need to be explicit in stating that this proposal emerged from Permanent TSB management which is responsible for managing the bank's operations commercially in accordance with the relationship framework. The relationship frameworks with the banks recognise that the covered institutions remain separate economic units with independent powers of

23 May 2013

decision and that the boards and management teams retain responsibility and authority for determining their institutions' strategy and commercial policies and conducting their day-to-day operations.

As I have said in response to recent parliamentary questions, the pension arrangements for the staff of Permanent TSB are a matter for the management of that company and the trustees of the relevant pension schemes. I am informed by the bank that very substantial funding deficits exist in the various defined benefit schemes which it operates. In response to this significant problem and as part of a review of the overall cost base of the business, Permanent TSB has recently communicated to staff its plans to discontinue employer contributions to all existing defined benefit pension schemes and to commence in their place contributions to a new defined contribution pension scheme. Ultimately, it is for the trustees of the defined benefit pension schemes to decide how the schemes will respond to this development, but it may result in the defined benefit schemes being wound up and the assets already accumulated being distributed among the members of the relevant schemes, in accordance with the requirements of the Pensions Act. I understand such matters have been the subject of discussions between the interested parties. I am also informed that both staff and management have agreed that, in the absence of any agreement to date, the matter should be referred to the Labour Court for an early hearing. In the light of this development, all sides should agree that space be given for these negotiations to take place in a constructive manner.

I am very aware of the serious funding challenge facing pension schemes. It is acknowledged that the fundamental problem is that pensions are significantly more expensive owing to increasing life expectancy and lower than expected investment returns which are reflected in the increased cost of annuities. The issue of how the assets of a pension scheme are distributed on the winding up of a pension scheme is under consideration by the Minister for Social Protection. It has been the subject of a detailed review, including engagement with representatives of stakeholders and external consultants. This is a complex and sensitive issue, one which requires careful consideration before any change is made to the current provision as set out in section 48 of the Pensions Act. I understand that in a wind-up of a pension scheme the additional voluntary contributions, AVCs, are given the highest priority, followed by the pensioners, while the deferred and active members are each given the same rights to the remaining assets. I cannot speculate on the level of assets that would be available to the deferred and active members in a wind-up of the Permanent TSB defined benefit schemes.

Deputy Thomas Pringle: When the State sold Irish Life for €1.3 billion recently, it also secured a windfall profit of €114 million from the quarterly profits of that company. That €114 million would be sufficient to close the deficit in the Permanent TSB pension schemes and allow the workers, including former workers, to secure their pensions. It should be within the control of the Minister, as practically the sole shareholder, to instruct the management of the company to make the money available to the pension schemes. Failing that, he has a responsibility to instruct management to continue to pay into the pension schemes while the issues to which he referred are being resolved through the Labour Court and the Minister for Social Protection's pensions Bill. At least, the workers, including former workers, would not be closed out completely from whatever system and solution were put in place.

Deputy Mick Wallace: By chance I received an e-mail in the past hour from a woman in Enniscorthy in which she wrote:

I started working in the bank in 1980. At that time the sign over the door read, Dublin

Savings Bank. I left the bank 30 years later in 2010 after witnessing many changes, not only the name over the door but the way banking business was done. During my employment I was hard-working and loyal and I was bound by the terms of my contract and obliged to save part of my income each month toward my pension. I am sure you can understand now how horrified I am to learn that the chief executive of Permanent TSB, Mr. Masding, is making the decision to wind up the pension scheme. By doing so, he puts my future and the future of my family in jeopardy. The action he is about to take will wipe out any hope I ever had to afford a good education for my child and will place me and my family in the position of asking the State for financial assistance in our older years.

We, the staff, have worked hard over the years to grow the bank. We have honoured our commitment to the bank and it is not right when the management decides to take advantage of employees and make them pay the price of the failure. Are you aware that the funding situation is not only due to poor marketing performance but to the lack of urgency and procrastination by the management of the bank to address the problems for the last five years?

Surely the Minister agrees there is false economy involved. The people concerned may end up being dependent on the State in some way and they will be unable to contribute to the domestic economy in the manner they would have expected. It is a case of losers all round. It is nuts.

Deputy Clare Daly: The Minister has attempted to swat away the problem and say it was as a result of a management decision and had nothing to do with him. We do not accept that is the case. Unfortunately, the attempts to close down defined benefit schemes are becoming all too common. It happened recently in the national theatre - the Abbey Theatre - and there is a threat to the scheme at the airport. This is a serious issue for many reaching retirement age. Any talks are very welcome if they are taking place. However, has the Minister instructed management at Permanent TSB to continue paying into the defined benefit pension scheme while these talks are in progress? To be honest, if he has not done so, it is an academic exercise and window dressing and will not be a serious attempt to address the very real problems faced by the staff. It is not just because people are living longer that there is a problem with pension schemes; it has come about as a result of a race to the bottom in employment and many staff who joined these companies joined defined benefit schemes, but the schemes were inadequately funded. I assume the Minister is aware that the OECD has stated companies should not be allowed to walk away and leave pensioners holding the can for poor decisions. What does the Minister intend to do in the next ten days to make sure this scheme is not shut down in order that there can be meaningful discussions to look at how the situation can be retrieved and people who have worked a lifetime in the bank can retire with dignity?

Deputy Michael Noonan: The situation may be worse than the Deputies who have raised the issue are aware. I am informed by Permanent TSB that the 2012 annual report showed a deficit of €127 million on the pension schemes. However, new accounting rules which came into effect from 1 January 2013 will cause this deficit to rise. As permitted under the accounting standard which applied in 2012 - IAS 19 - Permanent TSB adopted the corridor approach which allowed the deficit to be smoothed over a period of time. However, the corridor approach was eliminated from 1 January 2013 under the new accounting standard; therefore, the deficit will rise as a result. Based on the deficit figure on 31 December 2012, the new accounting rules will increase the accounting deficit by €184 million, as disclosed in the 2012 annual report, giving rise to a deficit of €311 million. The best way forward is as I have stated, to allow the matter to be referred to the Labour Court - both management and employees agree that this should hap-

pen - and allow the space for negotiation under the guidance of the Labour Court.

Schools Recognition

Deputy Seán Conlan: I welcome the opportunity to speak on this topic of great importance not only in County Monaghan but also nationally. It should be addressed and treated as such.

Monaghan Collegiate School has been teaching students since the 1500s. It is a small school of 247 pupils and operates within the Protestant ethos. It is the only Protestant secondary school in County Monaghan, although there are a number of Protestant national schools in the county. It does more than serve as a school; it also performs a vital function for the minority community in the county. It is important in a republic that parents have a right to choose the faith in which they wish their children to be educated. This is a choice all parents should have, regardless of their religion, and the country must allow for diversity of ethos in schools. Where a need is identified, the Government must support it. A way must be found to keep the current curriculum intact.

The parents who send their children to Monaghan Collegiate School are not part of a wealthy elite who choose to send their children to a private school because of a belief they will secure a better standard of education. They choose to send their children to the school because they want to have them taught in the Protestant faith. The fees for attending the school are very low and not on a par with those quoted for some Dublin schools. It is very important in this day and age that Ireland, being a republic, send a message, particularly in a Border area such as County Monaghan, that this country promotes inclusivity and will not force members of the minority Protestant community to send their children to school across the Border in counties Armagh and Tyrone when they are entitled to have them educated in the Republic. Monaghan Collegiate has already suffered this year on foot of the loss of its concession and the resulting increase in its pupil-teacher ratio. If pressure is placed on the school to increase the ratio further, specialised teachers in subjects like French will be lost, increasing the chance that parents will send their children to complete their educations across the Border. As the headmaster, Mr. Johnston Reid, put it in his earthy fashion "If you take the goods off the shelf, people will not come into the shop". After September 2013, the effective pupil-teacher ratio will be 29:1, not 23:1. Currently, children are entitled to 28 hours of education per week whereas teachers are only entitled to teach for 22 hours per week. It means that for a headmaster juggling the numbers, the effective ratio is 29:1.

It is vital that funding is secured to ensure the future viability of Monaghan Collegiate. The school is suitable to be funded under peace programmes as a cross-Border project. I cannot stress enough that the community must not be made to feel excluded and marginalised. Monaghan Collegiate has survived for over 400 years and is a testament to the strength and determination of the Protestant community in County Monaghan to educate their children in their own ethos. I have been approached by a large number of parents and students, among whom there is a palpable sense of anger that they are being discriminated against by the Department's one-size-fits-all approach. Monaghan Collegiate is a special case in that it is a Border school. We have a situation whereby less than a mile north of the Border in Aughnacloy and less than three miles from the Border in Newtownhamilton, Protestant schools have been protected over the last 25 years notwithstanding that their pupil-teacher ratio was also under threat.

It is vitally important that the issue is brought to the fore to ensure that parents who want to

send their kids to Monaghan Collegiate can do so into the future. It is fine if someone wants to send his or her kids to a multid denominational school, but some parents want to raise their kids in a faith-based school, whether it is Catholic or Protestant. In a republic, we must ensure the right to do so is protected. The changes that are taking place are jeopardising the future of the school, which is a retrograde step.

Deputy John Perry: I am taking this Topical Issue on behalf of my colleague, the Minister for Education and Skills, Deputy Ruairí Quinn, and I thank Deputy Conlon for providing me with the opportunity to outline to the House the position on the need to protect the future viability of Monaghan Collegiate School.

The Government has protected frontline services in schools to the greatest extent possible in the recent budget and there will be no reduction in teacher numbers in primary schools and free second-level schools for the 2013-14 school year as a result of the budget. DEIS provision for disadvantaged schools is also fully protected with no overall changes to staffing levels or funding as a result of the budget. At post-primary level and in order to promote fairness in the funding of second-level schools, a two-point increase in the pupil teacher ratio in fee-charging second-level schools will be introduced in September 2013. Currently, 55 schools out of 723 post-primary schools charge fees, which range from €2,550 to €10,065 for day pupils. The State pays the salary of one teacher for every 21 pupils in these schools compared with one teacher for every 19 pupils in schools in the free education scheme. A ratio of 18.25 pupils to one teacher applies in DEIS schools. While the ratio will rise to 23:1 in fee-charging schools from September 2013, these schools have the resources, through fees charged, to employ teachers privately, an option which is not available to schools in the free-education scheme. A report on the analysis of the tuition income of fee-charging schools carried out by the Department was recently published. It showed that the schools in question have €81 million in discretionary income that schools in the free scheme do not have. It is important to note that the report does not contain any policy proposals at this stage. Even after the budget changes are implemented, the discretionary income available to these schools will still be quite considerable.

There are some concerns within the Church of Ireland community on the recent budget measure affecting fee-charging schools. The Government recognises the importance of ensuring that students from a Protestant or reformed church background can attend schools that reflect their denominational ethos while at the same time ensuring that funding arrangements accord with the provisions of the Constitution. How best to sustain education provision for widely dispersed and small local communities presents a particular challenge, especially in any locality where enrolment is declining to single figures. The Government is intent on fostering pluralism in school provision. Supporting small communities, including minorities, to maintain their schools is part of that policy. The school to which the Deputy refers has been in contact with the Department. A range of issues have been discussed and further meetings will be held.

An arrangement exists for fee-charging Protestant schools, whereby funding is provided by the Department to the Secondary Education Committee, or SEC, an organisation run by the churches involved in managing Protestant secondary schools. The SEC disburses the funds to the Protestant fee-charging schools on behalf of pupils who would otherwise have difficulty with the cost of fees and who, in the absence of such financial support, would be unable to attend a second-level school of a reformed church or Protestant ethos. This funding amounts to €6.5 million annually to ensure that necessitous Protestant children can attend a school of their choice.

23 May 2013

In conclusion, I confirm that the Minister and relevant Department officials will continue to engage with the relevant education-sector stakeholders, including the Church of Ireland and boards of education, in relation to education provision for all areas.

Deputy Seán Conlan: I thank the Minister of State for his response. This is the only Protestant secondary school in County Monaghan and it will be very simple for parents to send their kids two or three miles across the Border to schools in Aughnacloy, Newtownhamilton or Armagh. It would be a travesty if this school were lost by reason of the Government's educational policy. The numbers are small at 247 pupils and the fees of €700 per year are very modest. It is not in the same league as the wealthy Dublin schools. Ordinary working people send their children to this school as it is the only one based on their faith in the county. I cannot stress enough that this community must not be made to feel excluded and marginalised. Monaghan Collegiate has survived for over 400 years and is a testament to the strength and determination the local Protestant community has brought to the protection of their school.

It is not acceptable to anyone who has true republican values that the school should be lost as a republic cherishes and recognises all of its citizens equally. Any republic which would choose to deny a marginal or minority community the basic right to an education in an institution sympathetic to its ethos while funding education programmes for its Catholic counterpart or people of no faith cannot call itself a true republic. We must be very conscious of what we are doing with this policy. We must ensure that we do everything possible to ensure that the school has a future. If the school went into the free scheme, it would be down to 14 teachers, lose vital subjects and parents would choose to send their kids across the Border to schools in Armagh and Tyrone. We are talking about only a stone's throw. It is six miles from Monaghan town to the Border. Many children live along the Border and it is as easy for them to get on the bus to go to Newtownhamilton or Armagh as to go into Monaghan town. It would be a travesty in this day and age if parents in the Republic had to choose to send their children to Northern Ireland to get an education.

The Government must look at this issue seriously and get a solution that is acceptable to the parents. They are very, very angry. They feel discriminated against by this policy and the issue is not going to go away. It must be sorted out and I urge the Minister to do so as quickly as possible.

Deputy John Perry: I assure Deputy Conlan that the school to which he refers has been in contact with the Department. I have no doubt that its board of management will work actively with the Department. A range of issues has been discussed and further meetings will be held. An arrangement exists for fee-charging Protestant schools, whereby funding is provided by the Department to the Secondary Education Committee. The Constitution does not allow positive or negative discrimination in respect of schools based on their religious ethos. I entirely agree with Deputy Conlan that the Minister for Education and Skills will do everything he can to facilitate this within the Constitution. It is important to emphasise that point. Parents may be annoyed and it is important that they now engage with the board of management and enter meaningful negotiations with the Minister. I have no doubt that he will come to a decision whereby the school's ethos will prevail and the 247 children will continue to attend. I ask the Deputy to engage and convey that to the principal and board of management of the school.

Dáil Éireann
Ceisteanna - Questions

Priority Questions

Public Sector Pay

1. **Deputy Sean Fleming** asked the Minister for Public Expenditure and Reform the changes he is considering to his position on public sector pay and conditions as outlined in the Croke Park 2 draft agreement; and if he will make a statement on the matter. [24892/13]

2. **Deputy Mary Lou McDonald** asked the Minister for Public Expenditure and Reform if his Department officials have completed their preparation on legislative measures to reduce the public sector pay and pensions bill; and when he intends to publish this legislation. [24804/13]

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I propose to take Questions Nos. 1 and 2 together. This afternoon, I published the proposed Financial Emergency Measures in the Public Interest Bill 2013 and the Bill is scheduled to come before the Oireachtas on Tuesday. The primary purpose of the proposed legislation is to implement the proposed pay reduction for public servants earning annual salaries of €65,000 or more and the parallel reduction in public service pensions over €32,500. Contingency measures to be deployed to secure reductions in the public service pay and pensions bill are also included, including provision for a universal freeze on pay increments. The legislation will also provide a facility for unions and representative associations to conclude collective agreements with their public service employers, which will avoid the need for those contingency measures to be used.

Amended proposals for collective agreements were brokered by the Labour Relations Commission in discussions between the parties on terms and conditions of public servants, which concluded on Monday morning last. I pay tribute to all those involved in the discussions, particularly the officers of the Labour Relations Commission, led by the chief executive Kieran Mulvey, the unions and their representatives, representative associations and public service employers, for their expertise and engagement on what was a very difficult agenda for all concerned.

The Government recognises the savings sought from the public service pay and pensions bill are extremely difficult and challenging for all public servants. The Government is conscious of the significant contributions made to the recovery of the State by public servants. They are a necessary further contribution to the fiscal consolidation process required to restore our economic sovereignty and bring our current expenditure deficit under control. It has also always been the ambition of mine, and the Government, to have an agreement on achieving the savings with our employees and their unions. If these proposals are accepted, achieving the required savings and major increases in public service productivity to secure the necessary reduction in the public service pay and pension bill will be possible. The essential elements and protections of the Croke Park agreement will remain in place. Industrial peace in the public service can be secured at a critical time on our path to economic sovereignty.

23 May 2013

Deputy Sean Fleming: The questions we had tabled for today related to the pay talks and have been gazumped by the Financial Emergency Measures in the Public Interest Bill which was published at 1 p.m. That is the essence of what we are now discussing.

My question asked about the changes in the legislation that were not in the rejected Croke Park II deal. The Minister said that was the best deal in town. I presume the Minister was sincere when he said that but he has moved on to a new deal. Is this a better deal and was the last deal not the best deal in town? Perhaps the Minister can explain why he has had a change in that regard.

The Minister pays tribute to those involved in negotiations. Can he talk to me about the involvement of retired public servants in the agreement process? My understanding is that they were not involved in the first process. The same paragraph is in the new agreement as was rejected earlier. The special legislation has major sections dealing with the reduction of pay of retired public servants who were not part of the deal. I cannot understand how the Minister is thanking people for their co-operation when he ensured they were not part of the process. Nevertheless, he is coming to take pay from the pensioners by way of emergency legislation. The Minister should explain the involvement they had.

The Minister talks about co-operation and agreement from public servants. We are all in favour of agreement and savings. The Minister has been quoting to me what Fianna Fáil said about the need for savings. Our position has not changed. Can the Minister explain to the public why he wants an agreement with the unions when he is ramming through legislation on Wednesday night giving legal effect to the agreement that is being signed off today? What is the purpose of wanting public service employees to vote for an agreement that will already have been rammed through the Oireachtas?

Deputy Brendan Howlin: A number of questions were asked. The first is the difference between the Haddington Road agreement and the Croke Park II agreement. I do not know if the Deputy has had a chance to read the Haddington Road agreement but he can see the differences. In the minute I have to respond, I do not propose to go through every section. He can cross-reference the two agreements.

The substantive change is that a number of unions, which did not engage in the first round of discussions, did engage and tabled suggestions. I made it clear the objective for us was to maintain the productivity elements of the deal and to achieve the targeted savings in pay and pensions. I was open to a variety of ways of doing it. More imaginative ways of doing it were tabled and costed. I can go through them in detail, probably next week, on Committee Stage. The two elements dovetail.

With regard to retired public servants, they were not directly represented at pay talks because that is not normally done. Officials from my Department will meet the association this week. It was felt that those who retired with pensions over €32,500, half of the pay cut ceiling, should take some reduction in pay. It is a reduction from 2% for those immediately over €32,500, rising to 5% at the top. We have had long discussions about people who have left the public service with very high pension pots. I am trying to make some reduction in a proportionate way. We will have a chance to tease it out in some detail next week.

The final question was what the point was. I hope we will have an agreement but I cannot assume that we will. A balloting and validation process is required. Some unions will do it

through their executives and some will do it by balloting. I cannot presume that so I need a backstop. People will sign up to the agreement and they can sign out of some of the measures in the financial emergency measures in the public interest legislation.

Deputy Brian Stanley: The Minister has published legislation on cutting pay and pensions, increment freezes and increased hours. I have not had a chance to read the legislation in detail. It seems the Minister has a deal. What is amazing is the tactics. The Minister has the legislation and has a majority in the House to push it through. Workers were asked to engage in an exercise of voting for it but the only positive aspect to come out is the more imaginative proposals suggested by unions not involved at the first stage. That is welcome and it shows their tactics were correct in holding the line and not accepting Croke Park II. They were right to wait for Croke Park III. We will wind up with some workers not accepting the deal. What will happen when one of two nurses unions, SIPTU or the INMO, does not accept it? What will happen in the case? How will it pan out in the workplace and how does the Government see it working out? I see a huge amount of division. As part of this overall package, 30,000 have left the public sector, which is one tenth of the public sector staff. It is also planned to remove 10,000 more by 2015. That will be a total of 40,000. By OECD standards that will be a very small public sector. There are already huge gaps in it. How does the Minister envisage that working?

Deputy Brendan Howlin: There were a number of questions. As I said, a number of unions engaged in full measure in the Labour Relations Commission after the ballot. That was their choice. I could not force anybody to engage. We could have probably got to the same point had everybody engaged over time, but I was willing to give the space and the time to get the best deal possible. I do not wish to be involved in any of this. Nobody in the Government wishes to be involved in cutting anybody's wages. I wish I was in a position to give increases. However, we must address the deficit. We are borrowing €1 billion per month and in the horizon of the further adjustments we must make, public pay will have to play a proportionate part in that. That is what is on the table now.

On the question of the status of people who vote against it, those unions that engage and accept the Labour Relations Commission proposals will have those proposals implemented. That will be the end of it. Those who reject them will not have the comfort of an agreement and the financial emergency measures in the public interest, FEMPI, legislation will apply to them.

Deputy Sean Fleming: I thank the Minister for his earlier contribution. He confirmed two things this afternoon. He has signed the deal and published legislation, but he does not have the costing of that with him today. He said he will try to have it on Committee Stage for a detailed discussion. If he has it with him-----

Deputy Brendan Howlin: The costing of what?

Deputy Sean Fleming: The costing of the savings under the agreement. The Minister said he will give it to us next week, but if he has it today he should provide it.

Deputy Brendan Howlin: I said I will give the detail of the measures next week. The Deputy is asking me to counterpoint the Haddington Road agreement to the other deal.

Deputy Sean Fleming: No, my question is very clear. I asked the Minister about the savings that will be achieved this year in public sector pay and he said he will give that next week.

Deputy Brendan Howlin: I did not. I will clarify that. I am sorry if I misled the Deputy.

23 May 2013

Deputy Sean Fleming: I want those figures today. Second, the Minister confirmed with regard to the FEMPI legislation that there were no discussions with the pensioners. Third, if the deal is not approved, will the Minister confirm if he will bring forward more legislation or is this the end of it? How much of the savings will be made through the agreement and how much will be made outside the agreement by way of cuts on public sector retirees and the targeted redundancy programme that is not part of this deal?

Deputy Brendan Howlin: Let me be very clear. I answered the questions and I do not wish to have any confusion about a matter of this importance, nor do I want any excitement to lead to such confusion. I was asked what were the changes between the Croke Park and Haddington Road agreements and I said I would go through that in detail with the Deputy next week. Will we achieve the targets in savings? Yes. There will be €300 million this year and €1 billion by 2015. For that reason it will not be necessary to amend the published Estimates, because those figures are in the Estimates. I hope that is clear.

With regard to the engagement with pensioners, the report last week showed that pensioners are the single group that has been least impacted to date. That is a good thing. However, it is reasonable that people on pensions of more than €32,500, and that is a small number of people, would make a proportionate contribution to the deal, which is 2% at that rate, when one is asking people who are working to take a further cut. At the top end of the scale, I am asking those who are on pensions of over €100,000 to make a 28% contribution. I do not believe there will be a clamour against that on the other side of the House.

Deputy Brian Stanley: The Minister did not answer my question regarding the reduction in the number of workers, which is the other side of what is happening in the public sector. County Laois has a large number of public servants. A total of 40,000 will be gone from the public service by 2015.

Deputy Brendan Howlin: There is a reduction in the numbers and that was set out in the programme for Government.

Deputy Brian Stanley: There is a further 10,000 now.

Deputy Brendan Howlin: We are doing things differently and providing services differently. We are providing shared services. In human resources management, for example, we are moving from a variety of centres of provision to a single centre of provision in PeoplePoint. We will do the same in payroll. A variety of payroll centres across the public service will be centralised into three. We will modernise the efficiency of the State. We are doing it already. As every business in the country and the world is doing, we will provide services directly and more efficiently to the people. More than 300 services are now provided online. I doubt that the Deputy would think of going to a travel agent instead of buying an Aer Lingus ticket online anymore. People use those facilities and we must provide public services that are attuned to the needs of a modern citizenry and that are affordable and sustainable into the future.

Sale of State Assets

3. **Deputy Joe Higgins** asked the Minister for Public Expenditure and Reform his Department's intended schedule for the sale of State owned assets. [24938/13]

4. **Deputy Sean Fleming** asked the Minister for Public Expenditure and Reform if he will list the State companies that are being currently considered for sale; if this list has been altered since it was originally drawn up; if he will provide a timetable for completion of the process; and if he will make a statement on the matter. [24893/13]

Deputy Brendan Howlin: I propose to take Questions Nos. 3 and 4 together.

The House will be aware from my announcement in February of last year of the overall shape and scale of the State asset disposal programme that is being pursued. In brief, the disposal programme that the Government has agreed consists of the sale of Bord Gáis Éireann's energy business, but not including BGE's gas transmission or distribution systems or the two gas interconnectors, which will remain in State ownership; the sale of some of ESB's non-strategic power generation capacity, that is, its two power stations not located in Ireland; disposal of the State's remaining shareholding in Aer Lingus, when market conditions are favourable in circumstances that accord with Government transport policy and at an acceptable price to the Government; and, after further consideration, and having ruled out the sale of Coillte's land holdings, the Government has also determined that a concession for the harvesting rights to Coillte forests would be proposed for sale.

I am pleased to report that significant progress has been made to date. BGE formally launched the sale process for its energy business on 3 May and I expect that the sale will be concluded by the end of this year. The ESB is also about to commence the sale of some of its non-strategic power generation assets, as announced last October. I expect that the sale of two of ESB's overseas assets, at Marchwood in the UK and Amorbieta in Spain, will be completed before the end of this year. In regard to Aer Lingus, the European Commission's recently completed investigation of Ryanair's bid for the company has been a complicating factor in the disposal of the State's stake. The UK's Competition Commission has now also reopened its investigation into Ryanair's holding in its rival. Until this and possible appeals processes are exhausted, it is unlikely that optimal conditions will exist for a sale of the Government's remaining shareholding.

In regard to Coillte, on foot of the Government's decision last year that a concession for the harvesting rights to the company's forests be considered for sale, an interdepartmental steering group was established, comprising representatives from my Department, the Department of Agriculture, Food and the Marine and NewERA, to progress the proposed transaction. A number of detailed financial, technical and other specialist reports were prepared for Coillte in late 2012 by external specialist consultancy bodies, in full consultation with the board of Coillte and its executive management, and these have also been considered by the steering group. The steering group has now reported to the Minister for Agriculture, Food and the Marine and myself, and we intend to bring proposals on this matter to the Government shortly.

An Ceann Comhairle: I call Deputy Seán Fleming.

Deputy Sean Fleming: Deputy Higgins tabled Question No. 3.

An Ceann Comhairle: My apologies. I call Deputy Higgins.

Deputy Joe Higgins: I thought we had got a new recruit from an unlikely quarter, a Cheann Comhairle.

The sale of any key infrastructure to transnational corporations on foot of the diktats of the

23 May 2013

troika to bail out bondholders and bankers is shameful. However, I will concentrate on Coillte and the proposed sale of forestry harvesting rights.

5 o'clock

The Minister stated he has got the report. Will he share with us what the report states? Does he acknowledge that leaks, perhaps from the Government or his Department, are now pointing to the fact that the sale of Coillte's harvesting rights, which would be immoral, would not make the economic sense that may have been envisaged? Does he acknowledge there is deep-seated opposition among ordinary people to the sale? It would create great uncertainty among downstream operators in the wood industry. A cost to the State of perhaps €1.3 billion, as estimated by the IMPACT trade union study, would arise. Access to recreational and outdoor facilities could be jeopardised. For those reasons, will the Minister agree that the sale of the harvesting rights should not proceed? Will he share with us what he proposes to do? His colleagues in the Labour Party have indicated the sale should not go ahead, and they feel the pressure. The Minister should let us know now; he should not hold off for another week or two.

Deputy Brendan Howlin: I understand the Deputy's views on these matters. What was considered was the sale of harvesting rights of trees that were growing commercially. The announcements were made in 2011 and people talked about a firesale and a rush. There is neither a rush nor a firesale. Very careful due diligence applies in respect of all these matters. The final report, drawing together all the advices received, has been submitted to me and the Minister for Agriculture, Food and the Marine and it will be presented to the Government shortly. I must be forgiven for allowing the Government time to consider the report and make a decision thereon before I share it with the House. As soon as the Government has made a decision, which will not take long, I will bring the conclusion to the House.

Deputy Sean Fleming: With regard to Question No. 4, the Minister referred to expressions of interest in respect of Bord Gáis. Could he give us a ballpark figure of the fees to be paid to consultants as part of the process? Somewhat perversely, the Minister seemed to indicate Ryanair's situation is actually preventing the sale of the 25% stake in Aer Lingus because of the various competition issues that arise. Is the Minister implying that the complication would not arise if Ryanair withdrew and that the Government could then proceed?

With regard to Coillte, the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, stated the mooted privatisation of Coillte looks more unlikely everyday. Does the Minister for Public Expenditure and Reform share his views? The Minister stated the ESB is selling off some power-generation facilities in the United Kingdom and Spain. Will it be selling off any in Ireland in the coming year?

Deputy Brendan Howlin: There were four separate questions. With regard to the cost of consultants, the process is obviously ongoing but I will give the Deputy a full costing when the matter has concluded and we have bills from the people assisting us in these matters.

Ryanair constitutes a complication but the primary issue is one of ensuring competition. I stated no decision will be made that is contrary to good transport policy. This means building on our tourism sector and ensuring businesses will have access to the State. These matters are all being considered by the Minister for Transport, Tourism and Sport.

About an hour after the Minister for Communications Energy and Natural Resources, Deputy Rabbitte, said what Deputy Fleming quoted, I was asked about Coillte at a press conference

after the troika evaluation. I responded that the Minister's evaluation is seldom off the mark.

With regard to the ESB, there will be no sale of any power-generating capacity in the Republic or the island of Ireland.

Deputy Joe Higgins: In the Minister's discussions with the troika on the sale of State assets, did the sale of Coillte feature? What was the outcome of the exchange? What is the attitude of the troika? If the Minister will not tell us what the report on Coillte states before it is presented to the Government, could he state whether his thinking has moved on over recent months in response to the very strong and persuasive arguments made on why the sale of Coillte's harvesting rights would be a very bad idea and damaging to our national forestry and proper policies on job creation and recreational facilities, etc.?

The Minister said the Minister for Communications, Energy and Natural Resources stated the sale is unlikely to happen and that he is seldom off the mark. Was the Minister for Public Expenditure and Reform confirming that the sale will not go ahead?

Deputy Brendan Howlin: I am confirming nothing because the Government has not made a decision on this matter yet. I have already indicated that to the House. I will revert to the House as soon as the Government has made a decision.

The Deputy asked whether my approach has changed. I have a pragmatic approach to solving the economic problems of this country and to determining what we can do to generate jobs. The first task I undertook with the troika was to change its understanding of what was to be done with the proceeds of State asset sales, which was to retire a little bit of debt. My determination and that of the Government as a whole was to use resources obtained from the sale of State assets to create jobs and reinvest in our economy. We have been very successful in that agreement. I want the proceeds of State assets to reinvest in current job creation. When we know the amount of money we will have later this year, we will be able to make plans on how to utilise it to create jobs in the economy.

With regard to Coillte, one must consider whether we will get the right price; the value; the costs that might arise; the impact on jobs, including those of the suppliers who depend on Coillte currently; and the environmental and recreational considerations. All these factors have been analysed very carefully and the analysis will be brought to the Government very soon.

Deputy Sean Fleming: With hindsight, the Minister will agree that he did not make his statement on Bord Gáis correctly. I asked him how much will be paid to consultants. For a Minister for Public Expenditure and Reform to state he will have to wait until the bills come in at the end of the process is insufficient. He must have a budget. I suggest that he have a budget and a ceiling. He should know these at this stage.

It appears as if the Aer Lingus development will not really happen this year, nor will the Dublin Port transaction.

Deputy Brendan Howlin: That was never to be the case.

Deputy Sean Fleming: Coillte seems to be substantially off the agenda or heading off the agenda. With regard to the ESB, there is to be no sale of energy-generating facilities in Ireland. Given that the Minister wanted to use up to 50% of the proceeds for job creation, how much less will he have for job-creation initiatives as a result of rowing back on his original plans? The

23 May 2013

estimate suggests there is quite a rowing back on the Minister's original plans, thereby leaving less money for job creation.

Deputy Brendan Howlin: It is hard to please the Deputy. He is not satisfied if we are selling and if we are not selling. He might make up his mind which side of the fence is actually on.

Deputy Sean Fleming: I take a pragmatic view like the Minister.

Deputy Brendan Howlin: That is not pragmatic. Let me be very clear: I want to maximise the amount of money we will get for job creation. I am very confident that we will have a very significant sum available from the State assets I have indicated will be sold this year. Within the ESB family, the two power stations I talked about, namely, those in the United Kingdom and Spain, are significant. There is significant interest from the BGE energy-generating capacity. An added benefit will be the creation of more competition in the energy sector. God knows, that is required. The false competition created by the former Government – by having one State company artificially compete with another by not allowing the first to decrease prices – could not work to the benefit of the consumer.

With regard to the cost of consultants, we have tendered and I will give the Deputy full details when the process is complete.

Public Sector Staff Remuneration

5. **Deputy Seamus Healy** asked the Minister for Public Expenditure and Reform his views on the report by the Nevin Economic Research Institute which claims that a cut of €1 billion in the public sector payroll will result in a saving of only €250 million euro to the Exchequer and will also result in the loss of 10,000 jobs including 5,000 in the private sector. [25013/13]

(Deputy Brendan Howlin): Consolidation measures amounting to around €28 billion, or over 17% of estimated 2013 GDP, have been implemented since the crisis began. This represents about 85% of the total consolidation required and highlights the scale of the challenge faced by the Government on taking office. The policy response requires a continuous, ambitious programme of fiscal consolidation, accompanied by structural reforms, to improve the fiscal position of the State, allied with measures necessary to ameliorate the impact on those who are most vulnerable in society. The fiscal parameters, while improving, do not provide any significant latitude to the current programme necessary to meet the general Government deficit target of less than 3% by 2015.

To meet Ireland's commitment to a deficit of less than 3% by 2015, the medium term fiscal statement published in November 2012 indicated that, in addition to the overall consolidation of €3.5 billion required for 2013, an additional €3.1 billion in savings and revenue raising measures must be identified for 2014 and €2 billion in 2015. If the public service pay and pensions bill, at 36% of spending, is to make a proportionate contribution to the necessary additional expenditure reduction currently identified as necessary over the next three years based on current economic forecasts, it will require a reduction of some €1 billion in the cost of pay and pensions.

Otherwise the existing significant burden of adjustment falling on services and social transfers, rather than pay, would be untenable. The report referred to by the Deputy focuses on only

one element of the consolidation measures required to put our public finances on a sustainable path. While acknowledging that it is difficult to model all of the impacts of the proposed adjustments, it models a form of pay bill reduction that is not proposed by the Government. The report also does not review or consider alternative strategies, particularly in the context of the wider economy.

Model simulations conducted using the ESRI's HERMES model suggest that a €1 billion reduction in the public service pay bill would reduce the level of economic activity by some 0.25 to 0.5 of a percentage point in the short-run. The exact impact would, of course, depend on how the reduction was achieved. This impact on the economy must be balanced against the need to ensure that the fiscal deficit is reduced so that the debt to GDP ratio assumes a downward path from next year onwards. Continuing to meet our fiscal targets can generate positive confidence and investment and can have a favourable impact on our economic performance.

Deputy Seamus Healy: It is now clear that Government policy, including the public sector pay cuts, is causing long term social damage and involves huge degrees of pain with relatively little gain. In fact, it is counter-productive. The Nevin Economic Research Institute professional review has shown that cuts of €1 billion would have a net gain to the Exchequer of €250 million. That is because there would be a reduced income tax and universal social charge take, reduced retail sales tax, VAT and excise duty, increased social welfare payments and, crucially, anything up to 10,000 job losses, 5,000 of which would be in the private sector.

This is a view which is generally supported by other economists. This week Professor Ray Kinsella of the UCD postgraduate school of business studies also said this sort of adjustment is tantamount to self harm. I suggest to the Minister that it is now clear that these proposals should be withdrawn and Government policy should be to stimulate and grow the economy to ensure the social damage which has already been done is reversed and real jobs are created.

Deputy Brendan Howlin: I listened to the analysis and rhetoric, but the truth is a very simple matter.

Deputy Seamus Healy: It is not rhetoric. It is a professional view.

Deputy Brendan Howlin: Does the Deputy want to hear an answer or does he want to keep talking? He does not want to hear the answer because he has made his mind up. Does he want to hear a different view?

We came into government and were faced with an economic meltdown. We could not pay beyond five months for services - that is how much money was in the kitty - unless we got an external funder to give us money. The only people who gave us money was the troika, and they gave it with conditions. The idea that one can stop austerity, as if one can walk away and money will flutter down from the sky, is not accurate. We need to work towards a balanced budget. Our income as a State fell by 30% because the previous Government built an artificial model where income was predicated on construction and outgoings were expanded exponentially for the years it was in office. That had to be brought into balance. Anybody who examines the fiscal situation understands that.

Of course there are implications for taking money out of the economy. That is why we have done things in such a measured way. We first extended the consolidation period to get to 3% by a year, from 2014 to 2015. We have hit the targets. The Deputy is quite wrong to say there are no obvious benefits. We have stabilised the economy and are one of the few economies in

23 May 2013

Europe to grow. The ESRI indicated that the economy will grow this year and next. We are the most attractive country in Europe for inward investment and are creating jobs. All of this is extremely difficult and I wish to God we were not forced to have to do it, but there is no simple alternative which allows us simply to continue paying because we will run out of money in very short order. Nobody will give us money at an affordable rate.

Deputy Seamus Healy: There is a commitment under clause 16 of Croke Park I to restore pay cuts starting with low paid workers. The Government has reneged on that. Today the Government published virulent and outrageous anti trade union legislation, which does not even provide for the commitments given under Croke Park II to restore the cuts. How can any public sector worker accept that these restorations will take place or that they will be the last ask for public servants? It has not been in the past and is not provided for in legislation.

Deputy Brendan Howlin: Let me be clear. The only pay cuts that are provided for in the FEMPI legislation which was published today are for those earning over €65,000. I do not know where the Deputy stands on high pay and whether he thinks those who can afford it should make a proportionate contribution to the recovery of the nation. The Deputy is against everything and for nothing.

Deputy Seamus Healy: That is outrageous. I have supported-----

An Ceann Comhairle: Please, I want to listen to the answer.

Deputy Brendan Howlin: On the restoration of pay cuts, I have deliberately structured the Bill I published today as a Financial Emergency Measures in the Public Interest Bill. By definition, it is anchored in the financial crisis. If one examines its latter sections, one will find I have amended it to include an annual report to the House on the continued existence of the financial emergency conditions. It is part of an emergency set of measures to bring us through the crisis. I hope pay levels will be restored over time, but it will take a long time, in order that we can have sustainable, affordable and efficient public services and taxation in the State in the future.

Other Questions

Private Sector Investment

6. **Deputy Dara Calleary** asked the Minister for Public Expenditure and Reform his views on the way that private sector investment including the European Investment Bank can be best used to complement public expenditure to maximise economic growth; and if he will make a statement on the matter. [24644/13]

Deputy Brendan Howlin: Public infrastructure is funded primarily by two sources of funding at the moment, namely, Exchequer financing, the vast bulk of funding, and PPP sourced funding. The PPP mechanism allows the State to leverage its resources and access additional investment to supplement the Exchequer capital programme, progressing needed infrastructure

investment while generating economic activity and supporting employment.

Last July, the Government announced its plans for an additional €2.25 billion investment in public infrastructure projects in Ireland over and above our existing Exchequer funded capital investment plan. The stimulus package comprises two elements. The first is a €1.4 billion to fund the proposed new PPPs. This will come from the European Investment Bank, the National Pensions Reserve Fund, domestic banks and other potential sources of funding. The National Development Finance Agency and the Department of Finance are leading on sourcing this funding and are liaising with my Department in this regard.

The second element is a package of €850 million coming from the proceeds of the sale of State assets and from the new licensing arrangements for the national lottery, to be used as a project preparation facility for the new PPP programme and to fund additional Exchequer capital projects and other commercial and publicly needed projects. The European Investment Bank is a strong and valuable support and partner in our PPP programme. In the past it has provided funding for a number of PPP projects, especially under the major motorway roads programme. More recently, it has supported two PPP projects, marking the reopening of the Irish PPP market following several years of international slowdown and difficulties in the market.

In November 2012 the latest bundle of PPP schools was signed off on by all partners. Work commenced immediately on eight sites around the country, supplementing the Exchequer funded schools building programme. We will be monitoring the number of jobs created through the stimulus package on an ongoing basis. This has already started on a pilot basis with the schools bundle 3 project which has an estimated capital value of €100 million. To date, some 924 direct full-time jobs have been created on the eight sites.

Additional information not given on the floor of the House

Work has also begun on the N11-Newlands Cross PPP project which was signed off on on 30 April. This is a bundle of two projects, the first of which involves removing the bottleneck at Newlands Cross on the N7 Limerick-Cork-Waterford road in Dublin. The second will be an upgrade of the N11 between Arklow and Rathnew to a four lane dual carriageway. The National Roads Authority, the National Development Finance Agency, the Department of Transport, Tourism and Sport and the funders - the EIB and Bank of Ireland - have all made significant efforts to deliver these projects in order to underpin market confidence that the PPP market is prepared and ready for the roll-out of the new PPP pipeline.

While the role of opening up additional funding lines for Ireland is primarily a matter for my colleague, the Minister for Finance and the National Treasury Management Agency, we have been working closely together in this regard. I am keen to build on the relationship we have with the EIB in order to ensure its continued support for the PPP programme. I have had several meetings with senior EIB personnel, including the president, Mr. Werner Hoyer, who has confirmed the bank's commitment to working with us to ensure we can maximise the resources available to Ireland and Irish investment. I welcome this valuable commitment and support which clearly demonstrates the confidence the EIB has in Ireland and the robustness of our projects.

Total EIB funding for Ireland in 2012 was €600 million. This was made up by projects in several sectors, including €100 million for Exchequer schools, €200 million for Exchequer water schemes, €50 million for the schools bundle 3 project, €150 million for Bank of Ireland's

23 May 2013

SME fund and €100 million for Bord Gáis's onshore wind programme. In addition to this EIB financing, my officials are working closely with officials from the Department of Finance and the National Development Finance Agency who are seeking to attract private sector infrastructure financing. Sources of such funding include domestic banks, international banks and institutional investors. The Minister for Finance is also liaising with our partners at European level to make progress in the area of non-bank financing.

Deputy Sean Fleming: The Minister has outlined what is being done generally through the public expenditure programme. My question, however, concerns the funding available in the private sector to complement the work ongoing through the European Investment Bank. Will the Minister tell us which banks are participating and how much each has drawn down or is capable of drawing down for onward lending to business, particularly the small and medium-sized business sector? Will he indicate the interest being charged by the EIB to these banks and what they, in turn, are charging their clients when they lend on the moneys? What is the period of the loans? People involved in the business sector are saying some of these loans are only available for a five year period, whereas the economic life of a project and the pay-back period are longer. If the Minister does not have the information to hand, he might convey it to me later. He has indicated that €850 million of the €2.25 billion investment in public infrastructural projects is coming from the sale of State assets. The difficulty in this regard is that the only revenue we can be sure of collecting this year in that process is the proceeds of the sale of the national lottery licence which, as the Minister indicated, will be received in December. I hope that funding is not being funnelled away from the national children's hospital project.

Deputy Brendan Howlin: The Deputy's questions on the European Investment Bank are more appropriate to my colleague, the Minister for Finance. However, I will answer them in so far as I can. I do not know the interest rates that apply. I have met the president of the EIB, Mr. Hoyer, on two occasions, first when he was newly appointed and the second time when he was in Ireland. The entire board of the bank met here, the first occasion on which it had met outside Luxembourg. Last year the bank allocated some €600 million to us and we are expecting an even larger allocation this year. We are also dealing with the Council of Europe Development Bank. The domestic banks involved in the programme are Bank of Ireland and Allied Irish Banks. In regard to SMEs, the EIB has pledged €500 million to each of the two pillar banks to be lent onwards to SMEs. While this is primarily a matter for the Minister for Finance, it is important that we ensure, given that the EIB does not operate high street banks, that the money is channelled through the pillar banks to the people who need it. In regard to the €850 million allocation from the sale of State assets, we are confident that, together with the sale of the national lottery licence, we will also receive the proceeds of the sale of ESB power stations and the Bord Gáis Energy generating capacity in the last quarter of the year.

Deputy Sean Fleming: I will direct several of the questions I asked to the Minister for Finance, as suggested, particularly in regard to the SME sector. In respect of funding for public projects, the Minister referred in a document issued by his Department last year to various education projects that were under way and several road projects. The Newlands Cross project was mentioned and there might have been one or two in his constituency. However, there was also mention of primary care centres in the health sector. What is the position in that regard and how many of these primary care centres will actually go ahead? Are they real or imaginary projects? Will the Minister indicate, in addition, whether any project in the justice area is included in the programme?

Deputy Richard Boyd Barrett: Is the Government monitoring public private partnership

agreements to ensure rights and conditions for employees are maintained? I ask this question in the context of the official pickets at the Shanganagh wastewater treatment plant yesterday. According to workers, the consortium of a Spanish multinational and an Irish building firm attempted to sack a shop steward who had sought to negotiate on conditions and so on. As a result, the workers have been forced to strike. The partner in this PPP is Dún Laoghaire-Rathdown County Council. Will the Minister give an undertaking that such projects do not function as an opportunity for private firms to trample on workers' rights?

Deputy Brendan Howlin: Deputy Sean Fleming asked about primary care centres. I should have mentioned that bundles of such centres will be included in the allocation of funding from the European Investment Bank. It is interesting to discover that different institutions like different projects. The EIB likes road projects, for example. I have been trying to offer different options, but these types of project seem to be what it is used to funding.

Deputy Richard Boyd Barrett: Does it like forests?

Deputy Brendan Howlin: The Council of Europe Development Bank, on the other hand, prefers justice projects. It is funding the project at Cork Prison, for instance, and the renovation of a number of Garda stations. It is a matter of conjecture as to why these bodies have a predilection for particular types of project. As I said, we are putting together various bundles. I will send Deputy Sean Fleming a note on the status of the primary care centres.

e-Government and ICT

7. **Deputy Seamus Kirk** asked the Minister for Public Expenditure and Reform the role envisaged for the Public Service Chief Information Officer Council; and if he will make a statement on the matter. [24659/13]

(Deputy Brendan Howlin): My Department established the Public Service Chief Information Officer Council in November 2011. The council is a representative forum for senior managers with responsibility for information and communications technology, ICT, and-or e-government from across the civil and public services. It provides expert input to decisions and actions to improve the impact of ICT and e-government on public service delivery. My Department, in collaboration with the council, has published e-government and cloud computing strategies to support the public service reform plan.

The council has met on seven occasions to date. Agendas, minutes and other relevant documentation are published on its website, *ciocouncil.gov.ie*. The council is chaired by my Department. The Government recently appointed Mr. Bill McCluggage as Government chief information officer and he will assume the chair when he takes up his appointment in June.

Deputy Sean Fleming: It was the appointment of Mr. Bill McCluggage that caught my eye some time ago. When one thinks about a chief information office, one might well assume it would in some way be connected with Government information services. What linkage is there between these two organisations? The Minister has talked about cloud computing, social media and so on. Surely they should all be integrated instead of having information technology communications in one corner and the old-fashioned communications methods being routed through Government information services. Is the Minister at liberty to outline the terms and conditions of Mr. McCluggage's appointment, including pay rates?

23 May 2013

Deputy Brendan Howlin: I do not have the terms and conditions of the appointment to hand, but I will have no difficulty in conveying them to the Deputy. Like most of the appointments I have made in my Department, including a new head of procurement and a new director of reform, he has been appointed on a five year contract with fixed wages. That is a good way to do it and the people I have appointed under these terms have been of extraordinary quality. Mr. McCluggage, likewise, is coming with a great pedigree, having been chief information officer in Northern Ireland before moving to the British Cabinet Office to assume the same role. I will send the Deputy a note on the structure of the council and how it operates.

Public Sector Staff Recruitment

8. **Deputy Clare Daly** asked the Minister for Public Expenditure and Reform if he will lift the public sector recruitment embargo which is resulting in important public facilities having to close down as vacancies from retirements remain unfilled. [24514/13]

(Deputy Brendan Howlin): The Government has set out an ambitious public service reform plan that aims to transform the quality and cost effectiveness of public services in Ireland. As part of that plan, we are undertaking a steady and managed reduction in public service numbers. There is, however, no wholesale embargo on recruitment. There is significant recruitment in targeted priority areas such as health and education.

The Government is, sensibly, taking a measured and prudent approach in order to mitigate the potential disadvantages of reduced staffing levels. To this end, the numbers reduction policy takes account of priority areas, by allowing for replacement of key staff especially in the education sector and in key areas of health; gives sectoral and local management discretion in exactly how staff resources are allocated within an area; provides a framework for redeployment of staff across the public service; and includes introducing new streamlined services such as shared services, which allow functions to be maintained and indeed enhanced with reduced staff levels and at a lower cost.

Reform of the public service is necessary both because we need to reduce costs given our serious fiscal position, and because the quality of public services for the citizen needs to be continually improved and value-for-money for the taxpayer protected. The Government's reform plan is comprehensive and ambitious. It captures a wide range of reform projects, including ICT infrastructure projects to support enhanced automation, better on-line services and shared payroll and HR services; change management projects to support more effective work practices, redeployment, rostering and manpower planning; organisation restructuring, involving mergers of previously separate State bodies and of divisions and work areas within organisations.

These reform projects will allow the public service to function more efficiently and more cost effectively over the medium term. Crucially, they are facilitating the delivery of services while making headcount reduction.

Deputy Clare Daly: The Minister has given the impression that the system is quite flexible, that there is not an outright ban and that services can be delivered. He said that areas such as education and health are prioritised, does this mean that local authorities are prevented from recruiting people? In my area Fingal County Council has to reduce library hours significantly because on the one hand, it needs to open a new library in Donabate and on the other, several librarians have retired. The net impact is that the local authority has said that it cannot open the

new facility unless it cuts hours in all the surrounding ones. This is a vital community service. In Rush, according to the census there are 9,000 people and over 6,500 are members of the library. There were 400 events there last year but now the library hours are being slashed. The Minister's party colleagues on the council took the unusual step of directing the County Manager to overturn this decision to reduce library hours. To do that they need 12 extra librarians to keep it open. What can the Minister's Department do in this case? Could those 12 people be recruited or is the council prevented from recruiting them? The Minister's answer would be very helpful to the people in the area and in illuminating the overall situation.

Deputy Brendan Howlin: I cannot answer a particular question like that because I cannot micro-manage the 300,000 employees across the State agencies, the local government sector and each Department. There is an employment control framework and there is flexibility within the framework devolved within councils or Departments. I do not want to pretend that there is no pressure. There is pressure as we are reducing numbers because we must reduce the pay bill. There are no compulsory redundancies and we have maintained that policy to date. Some services will be affected. I do not want to pretend that is not a fact because we are in an economic crisis. Unfortunately we cannot afford all the services I would love to be able to provide. I am not in a position to speak about the local library the Deputy mentioned.

I regard the library service as a flagship for the State. When I was a member of Wexford County Council that was the only committee of which I wanted to be a member because I think libraries are very important to the community. On foot of this discussion I will ask my Department to contact Fingal County Council about this but I cannot give any succour or support to the Deputy about what flexibility might be available.

Deputy Clare Daly: I know the Minister does not know the detail but theoretically is there anything to stop the local authority from taking on 12 people? Is there a ban in place, stopping the authority from recruiting 12 people? The Minister says it must be done within a cost framework but assuming these savings were made elsewhere could the embargo be lifted to provide librarians? Librarians have a particular skill and they are required in order to keep the facility open. Is there anything blocking that if the savings could be found elsewhere? I have lots of problems with the big picture but I would like an answer on that local example for now.

Deputy Brendan Howlin: I am at two removes from this, first because it concerns the local authority and second because that is the responsibility of the Department of the Environment, Community and Local Government. There is an employment control framework which sets a headcount local authorities are not allowed to exceed. There is flexibility within that but I do not know the details and what flexibility applies at local level. The Deputy might talk to the Minister for the Environment, Community and Local Government about this matter. I will ask my Department to make contact with Fingal County Council.

Lobbying Regulation

9. **Deputy Timmy Dooley** asked the Minister for Public Expenditure and Reform his plans for regulation of lobbying; and if he will make a statement on the matter. [24653/13]

(Deputy Brendan Howlin): I recently secured Government approval for the drafting, by the Office of the Parliamentary Counsel, of the Lobbying Regulation Bill. The general scheme of the Bill has been published on my Department's website.

The main aim of the proposed regulatory scheme is to strengthen public confidence in politics and in the business of government, as well as to increase the accountability of decision-makers by subjecting public policy-making, and those who seek to influence it, to greater openness and transparency.

The proposed Bill provides for a statutory web-based register of lobbying activity. The key features of the proposed regulatory system include the following: communication with designated public officials or office holders on specific policy, legislative matters or prospective decisions will be subject to registration. The focus of the lobbying register will be on the subject matter of the communication, the purpose of the lobbying, the organisations and person lobbied and the type and intensity of lobbying. It is intended that the Standards in Public Office Commission, SIPO, will be responsible for managing the implementation of the register and for monitoring compliance. An important part of this function will be to provide guidance to registrants. The proposed Bill will also allow for the regulation of a “cooling-off” period for up to a year for former public officials seeking to lobby former colleagues they worked with in a public body. A more extended blanket prohibition on post-public employment is likely to conflict with a person’s right to earn a livelihood. Normal citizen interaction with their local political representatives is a fundamental democratic right and will not be subject to registration other than when it relates to land rezoning and development issues in light of the recommendations of the Mahon tribunal.

Lobbying activity forms an important element of the democratic process. It contributes to greater openness and transparency on public policy formulation and provides valuable input to the decision-making process. The intention of this Bill is to continue to encourage such participation and engagement but to ensure that it occurs in an open and transparent manner.

Deputy Sean Fleming: I understand that is generally the scheme about which the Minister has spoken and he wrote to the Oireachtas Joint Committee on Finance, Public Expenditure and Reform during the month saying that he hopes to have the legislation enacted by the end of the year. What is his plan for the commencement and implementation date of that legislation? Many Bills have been enacted but never commenced.

Today we heard that the Taoiseach held formal talks with the tobacco industry. Some of the big asset sell-offs such as the part sale of Bord Gáis, the national lottery licence and the ESB stations about which we will talk for the next decade will happen or be under way before this legislation comes in. It looks as if the legislation is being delayed or not proceeding in advance of the sale of State assets. The legislation could have been brought in last year. It looks as if we will wait till the assets are sold off before bringing in the legislation so that people cannot influence major Government decisions after the fact.

Deputy Brendan Howlin: I will commence the legislation as soon as I can but I do not want to pre-empt the legislative process. I hope to bring it to Government very shortly and I will publish it immediately thereafter but there is a growing queue to get into the Oireachtas Joint Committee on Finance, Public Expenditure and Reform now and it will be very busy for the next while.

There are clear, published protocols about the handling of the sale of State assets. I have made it clear that in respect of any information from a bidder or potential bidder my immediate staff has had no contact at all with such persons. There is a portal, an access point, through NewEra and a designated officer to handle that and the protocols surrounding that are published.

What was the Deputy's last point? I have written "lobbying".

Deputy Sean Fleming: It was about the tobacco industry.

Deputy Brendan Howlin: Everyone is entitled to lobby. The issue about the lobbyist register is that everyone is entitled to know who is lobbying. It is also important lobbying is done in an open and transparent way.

Deputy Sean Fleming: Will the Minister put the Standards in Public Office Commission, SIPO, on notice to put arrangements in this regard in place? Before, when we have passed legislation, it has taken six to 12 months to have new systems put in place so the legislation's provisions could become operational. SIPO should be put on notice on the general scheme of this proposed legislation to ensure it does not commence putting the systems in place after the legislation is enacted but beforehand.

With another budget coming up in several months' time, the motor industry could be lobbying on motor tax, the pharmaceutical industry on the costs of medicine or the drinks industry on the sponsorship of sports. Will the Minister put a voluntary registration in place so the public can see who is lobbying which Minister about what in the months ahead?

Deputy Brian Stanley: Yesterday, at a Dáil committee hearing on the IFSC Clearing House Group, I had the most educational day since I was elected-----

An Ceann Comhairle: Good man, but do not tell us about it. Just ask a question.

Deputy Brian Stanley: I realised where the centre of the power is.

An Ceann Comhairle: Deputy, we have three minutes left and there is another Deputy with a question coming up.

Deputy Brian Stanley: Will the Minister include the IFSC Clearing House Group in the lobbying legislation?

Deputy Mick Wallace: The Minister claims the legislation will prevent former members of a Government from lobbying for a year. Transparency Ireland has pointed out this is too short a time. Does the Minister believe five years would make more sense?

Deputy Brendan Howlin: I will have to think about putting the IFSC in the lobbying legislation. I will come back to Deputy Stanley on the matter.

On the cooling-off period, people are entitled to make a living, as Deputy Wallace knows full well, and people have constitutional rights in this regard. On the notion that one could be disbarred, for example, say the Minister for Justice and Equality wants to become a solicitor again----

(Interruptions).

Deputy Mick Wallace: I wish he would.

Deputy Brendan Howlin: Should he be debarred? Maybe I am asking the wrong person that question. Let me make it easier - should the Minister for Health be allowed to be a doctor

23 May 2013

again? The embargo on lobbying will not only apply to officeholders, but also to senior public servants. What grates with people is that senior public servants dealing with an industry or an issue can seamlessly move within a month of leaving office to the other side of the fence, well-armed with information. A year is a reasonable time for cooling off because matters move on without unnecessarily impacting on a citizen's right to earn a living. Otherwise, we may have to pay people for that period given.

Croke Park Agreement

10. **Deputy Joe Higgins** asked the Minister for Public Expenditure and Reform the position regarding the negotiations between the Labour Relations Commission and the public service unions that have taken place since the rejection of the Croke Park II proposals. [24670/13]

(Deputy Brendan Howlin): The Government is committed to finding the necessary pay bill savings of €300 million for 2013 and €1 billion by end 2015. We have always maintained that the preferred option was to deliver the necessary savings by agreement.

As the Deputy will now be aware, on foot of the rejection by the public services committee of the Irish Congress of Trade Unions, ICTU, of the Labour Relations Commission, LRC, proposals negotiated in February of this year, the Government had asked the commission's chief executive, Mr. Kieran Mulvey, to initiate discussions with various public sector unions and representative associations on whether there was a basis for a negotiated agreement for achieving the necessary savings.

We have always indicated we were prepared to show the necessary flexibility around how savings could be achieved. That flexibility was availed of by some unions during the first set of discussions which took place earlier this year and again during the most recent LRC process.

Mr. Mulvey and his team have been engaged in intensive discussions with the parties over recent weeks and he has kept me fully informed of developments. Those discussions concluded on Monday last and unions now have draft proposals for agreement for consideration under their own rules and procedures.

The Government is pleased with the outcome of the LRC process. I thank all those involved in the talks, particularly the LRC which facilitated the discussions. It provides us with an opportunity to achieve the necessary savings, to afford the protection of a collective agreement to public servants and to provide industrial peace in the public service at a crucial time for our economy.

As I have stated, if these proposals are accepted, it will be possible to achieve the required savings and achieve major increases in public service productivity to secure the necessary reduction in the public service pay and pension bill. The essential elements and protections of the existing public service agreement will also remain in place and industrial peace in the public service can be secured at a critical time on our path to economic recovery.

Also today, I published legislation to give effect to the pay reduction for those earning over €65,000, the parallel reduction in public service pensions and other contingent measures to enable the Government achieve its savings requirements in the event of non-ratification of collective agreements. Obviously, unions can opt out of the collective agreement if they so wish.

Deputy Joe Higgins: The financial emergency measures in the public interest will enshrine these pay cut proposals from the Government. Can I put it to the Minister that it is misnamed legislation? The public interest suggests the majority interest of ordinary people but this is in the interest of continuing the bailout of bankers and bondholders at the expense of public sector workers and continuing the flow of money to the former. Has the Minister reflected on the bullying and the badgering he has engaged in over the past two months? He has threatened public sector workers that, unless they swallow these cuts, they would be savagely implemented anyway. Following the clear rejection of these proposals, he continued with this, suffering from what I call the Lisbon treaty syndrome where the Government does not accept a democratic outcome but threatens awful repercussions.

Will the Minister agree there is an alternative of putting a progressive tax on the 5% of top earners, introducing a financial transaction tax and a wealth tax? From these, he could get far more than the €1 billion he is now trying to rob from low and middle-income workers in various ways.

Deputy Richard Boyd Barrett: Setting aside the politics of it and focusing on the process, will the Minister not pre-empt and subvert the ballot of workers which is likely to take place in the next week by demanding that amendments for this Bill are submitted by tomorrow at 11 a.m.? The workers have not looked at it and neither have Members.

An Ceann Comhairle: Sorry, Deputy, but that is not for the Minister to decide but for the House.

Deputy Brendan Howlin: The process of legislation is a matter for the House, not for me.

Deputy Higgins is in a poor position to demand people accept a democratic decision since there are various charges, taxes and levies decided by the elected representatives of the people against which he himself campaigns.

Written Answers follow Adjournment.

The Dáil adjourned at 5.50 p.m. until 2 p.m. on Tuesday, 28 May 2013.